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Chief Clerk of the House

FILED MAR 09 2005

By: Haggerty

H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary [~~+~~] and that is sponsored by a licensed, bonded retailer;  
and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the

1 issuance or renewal of a license in the following amount:

2 (1) \$100,000 for a manufacturer;

3 (2) \$50,000 for a retailer;

4 (3) \$30,000 for a rebuilder;

5 (4) \$50,000 [~~\$20,000~~] for a broker; or

6 (5) \$10,000 for an installer.

7 SECTION 4. Section 1201.107, Occupations Code, is amended  
8 by adding Subsections (d) and (e) to read as follows:

9 (d) If a retailer or broker offers for sale or participates  
10 in any way in the sale of a manufactured home at an unbonded  
11 location, the retailer or broker must:

12 (1) identify the bond on file with the department in  
13 conjunction with that person's license; and

14 (2) provide contractually in the sales transaction  
15 that the identified bond applies to the sale at the unbonded  
16 location.

17 (e) In this section, "location" means an undivided parcel of  
18 real property where more than one manufactured home is located and  
19 offered for sale, exchange, or lease-purchase by a retailer or  
20 broker to the public.

21 SECTION 5. Sections 1201.113(a), (b), (e), and (g),  
22 Occupations Code, are amended to read as follows:

23 (a) The board shall recognize, prepare, or administer  
24 certification and continuing education programs for salespersons  
25 [~~persons~~] regulated under this chapter.

26 (b) A person who holds a salesperson's license [~~holder~~] must  
27 participate in certification and continuing education programs as

1 provided by Subsection (e).

2 (e) To maintain the salesperson's license, a salesperson  
3 ~~[Persons]~~ regulated under this chapter ~~[and directly involved in~~  
4 ~~the sale of manufactured housing]~~ must complete eight hours of  
5 certification and continuing education programs each year. The  
6 programs must address ~~[state and federal law applicable to all~~  
7 ~~manufactured housing retailer practices and]~~ relevant consumer  
8 protection regulations and ethical standards. A salesperson must  
9 complete eight hours of instruction not later than the 90th day  
10 after the date the salesperson's initial license is issued.

11 (g) The board shall suspend the license of a salesperson  
12 ~~[person]~~ regulated under this chapter who does not complete the  
13 programs as required by this section. The board shall reinstate the  
14 license on the salesperson's ~~[person's]~~ completion of the programs.

15 SECTION 6. Section 1201.114(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A manufacturer's, retailer's, broker's, or installer's  
18 license is valid for one year. A salesperson's license is valid for  
19 two years. A license ~~[and]~~ may be renewed as provided by the  
20 director. A person whose license has been suspended or revoked or  
21 whose license has expired may not engage in activities that require  
22 a license until the license has been reinstated or renewed.

23 SECTION 7. Section 1201.151(d), Occupations Code, is  
24 amended to read as follows:

25 (d) This section does not apply to:

26 (1) a deposit held in escrow in a real estate  
27 transaction; or

1           (2) money stated to be a down payment in an executed  
2 retail [~~installment~~] sales contract.

3           SECTION 8. Section 1201.159(a), Occupations Code, is  
4 amended to read as follows:

5           (a) A broker shall ensure that the seller gives the buyer  
6 the same disclosures and warranties that the buyer would have  
7 received if the buyer had purchased the manufactured home through a  
8 licensed retailer [~~may but is not required to be the agent of a~~  
9 ~~party involved in the sale, exchange, or lease-purchase of a~~  
10 ~~manufactured home for which a statement of ownership and location~~  
11 ~~has been issued and is outstanding~~].

12          SECTION 9. Section 1201.163, Occupations Code, is amended  
13 by amending Subsections (a) and (b) and adding Subsection (g) to  
14 read as follows:

15          (a) In addition to the disclosure statement required by  
16 Section 1201.162, the department shall adopt rules creating a  
17 one-page form printed in at least 12-point type that addresses  
18 [~~addressing~~] consumer protection disclosures required in chattel  
19 mortgage transactions and shall prescribe the form for the  
20 disclosure statement. A consumer protection disclosure statement  
21 under this subsection may not contain any blank lines and must  
22 contain only [~~include~~] the following:

23           (1) a statement of the significant differences between  
24 chattel mortgages and real estate mortgages;

25           (2) an itemization of typical [~~estimated closing~~]  
26 costs associated with a chattel mortgage purchase of a manufactured  
27 home [~~, if any~~];



1           (3) an example ~~[estimate of the total amount]~~ of  
2 monthly payments in three typical transactions, including the  
3 amount of the [+

4                   ~~[(A)] principal, [and] interest, [payments,~~  
5                   ~~[(B) costs of any]~~ required insurance  
6 premium, [+] and

7                   ~~[(C) costs for payment of]~~ ad valorem taxes~~[-~~  
8 ~~based on the current tax rate of each taxing unit in which the~~  
9 ~~manufactured home will be located as applied to the sales price of~~  
10 ~~the manufactured home];~~

11           (4) a statement of the roles of the retailer and any  
12 affiliated parties in the financing of the first retail sale, as  
13 defined by Section 1201.201, and the estimated compensation that  
14 they will receive for providing or arranging the financing; and

15           (5) any other disclosures required by state or federal  
16 law, including the Real Estate Settlement Procedures Act of 1974  
17 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15  
18 U.S.C. Section 1601 et seq.).

19           (b) A retailer shall provide the consumer protection  
20 disclosure statement to the consumer ~~[at least 24 hours]~~ before the  
21 completion of the first credit application ~~[installment contract is~~  
22 ~~fully executed, as provided by Section 1201.164].~~

23           (g) A consumer may not waive the right to receive the  
24 disclosure statement under this section.

25           SECTION 10. Section 1201.164(a), Occupations Code, is  
26 amended to read as follows:

27           (a) In a chattel mortgage transaction involving an

1 installment contract, a retailer shall deliver to a consumer at  
2 least 24 hours before the contract is fully executed [~~the~~  
3 ~~disclosure statements required by this subchapter and~~] the  
4 contract, with all required information included, signed by the  
5 retailer. The delivery of the [~~disclosure statements and~~]  
6 installment contract, with all required information included,  
7 signed by the retailer constitutes a firm offer by the retailer.  
8 The consumer may accept the offer not earlier than 24 hours after  
9 the delivery of the contract [~~documents~~].

10 SECTION 11. Section 1201.2055, Occupations Code, is amended  
11 by amending Subsection (d) and adding Subsections (e), (f), and (g)  
12 to read as follows:

13 (d) If [~~the department issues a statement of ownership and~~  
14 ~~location to~~] an owner elects [~~who has elected~~] to treat a  
15 manufactured home as real property, the department shall issue to  
16 the owner a certified copy of the statement of ownership and  
17 location that on its face reflects that the owner has elected to  
18 treat the manufactured home as real property at the location listed  
19 on the statement. Not later than the 60th day after the date the  
20 department issues a certified copy of the statement of ownership  
21 and location to the owner, the owner must:

22 (1) file the certified copy in the real property  
23 records of the county in which the home is located; and

24 (2) notify the department that the certified copy has  
25 been filed.

26 (e) A [~~the~~] manufactured home is not considered to be real  
27 property until a certified copy of the statement of ownership and

1 location has been filed and the department has been notified of the  
2 filing as provided by Subsection (d).

3 (f) If the department is notified under Subsection (d), the  
4 department in a timely manner shall note in its records that a real  
5 property election has been perfected. If the department is not  
6 notified as described by Subsection (d), the department shall note  
7 in its records that a real property election has not been perfected  
8 and that the home remains personal property [~~in the real property~~  
9 ~~records of the county in which the home is located~~].

10 (g) After the department notes in its records that a real  
11 property election has been perfected [~~certified copy has been filed~~  
12 ~~in the real property records of the county~~], the home is considered  
13 to be real property [~~in the form of an improvement to the underlying~~  
14 ~~real property on which the home is located. If a real property~~  
15 ~~election has been made but a certified copy of the statement of~~  
16 ~~ownership and location has not been filed as required by this~~  
17 ~~subsection, the home continues to be treated as personal property~~  
18 ~~until the certified copy is filed~~].

19 SECTION 12. Section 1201.206(d), Occupations Code, is  
20 amended to read as follows:

21 (d) Not later than the 30th day after the date of each [~~At a~~]  
22 subsequent sale or transfer of the home, the seller [~~purchaser~~] or  
23 transferor [~~transferee~~] shall provide to the department a completed  
24 application [~~apply~~] for the issuance of a new statement of  
25 ownership and location.

26 SECTION 13. Section 1201.207(a), Occupations Code, is  
27 amended to read as follows:

1           (a) The department shall process any completed application  
2 for the issuance of a statement of ownership and location not later  
3 than the 15th [~~10th~~] working day after the date the application is  
4 received by the department. If the department rejects an  
5 application, the department shall provide a clear and complete  
6 explanation of the reason for the rejection and instructions on how  
7 to cure any defects, if possible.

8           SECTION 14. Section 1201.209, Occupations Code, is amended  
9 to read as follows:

10           Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
11 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.  
12 The department may not refuse to issue a statement of ownership and  
13 location and may not suspend or revoke a statement of ownership and  
14 location unless:

15           (1) the application for issuance of the statement of  
16 ownership and location contains a false or fraudulent statement,  
17 the applicant failed to provide information required by the  
18 director, or the applicant is not entitled to issuance of the  
19 statement of ownership and location;

20           (2) the director has reason to believe that the  
21 manufactured home is stolen or unlawfully converted, or the  
22 issuance of a statement of ownership and location would defraud the  
23 owner or a lienholder of the manufactured home;

24           (3) the director has reason to believe that the  
25 manufactured home is salvaged, and an application for the issuance  
26 of a new statement of ownership and location that indicates that the  
27 home is salvaged has not been filed;

1           (4) the required fee has not been paid;  
2           (5) the state sales and use tax has not been paid in  
3 accordance with Chapter 158, Tax Code, and Section 1201.208; or  
4           (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
5 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
6 ~~that section existed on the date the lien was filed,~~] and the lien  
7 has not been extinguished.

8           SECTION 15. Subchapter E, Chapter 1201, Occupations Code,  
9 is amended by adding Section 1201.217 to read as follows:

10           Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
11 of real property on which a manufactured home owned by another is  
12 located may declare the home abandoned as provided by this section  
13 if the home has been continuously unoccupied for at least six  
14 months.

15           (b) Before declaring a manufactured home abandoned, the  
16 owner of real property on which the home is located must send a  
17 notice of intent to declare the home abandoned to the owner of the  
18 home and all lienholders at the addresses listed on the home's  
19 statement of ownership and location on file with the department.  
20 Mailing of the notice by certified mail, return receipt requested,  
21 postage prepaid, to the persons required to be notified by this  
22 subsection constitutes conclusive proof of compliance with this  
23 subsection.

24           (c) On receipt of a notice of intent to declare a  
25 manufactured home abandoned, the owner of the home or a lienholder  
26 may freely enter the real property on which the home is located to  
27 remove the home.

1        (d) If the manufactured home remains on the real property  
2 for at least 45 days after the date the notice is postmarked:

3            (1) all liens on the home are extinguished; and

4            (2) the real property owner may declare the home  
5 abandoned and may apply to the department for a statement of  
6 ownership and location listing the real property owner as the owner  
7 of the manufactured home.

8        (e) A new statement of ownership and location issued by the  
9 department under this section transfers, free of any liens, title  
10 to the manufactured home to the real property owner.

11        SECTION 16. Section 1201.219(b), Occupations Code, is  
12 amended to read as follows:

13        (b) Except as provided by Subsection (a), a lien on a  
14 manufactured home is perfected only by filing with the department  
15 the notice of lien on a form provided by the department. The  
16 recordation of a lien with the department is notice to all persons  
17 that the lien exists. Except as expressly provided by Chapter 32,  
18 Tax Code, a lien recorded with the department has priority,  
19 according to the chronological order of recordation, over another  
20 lien or claim against the manufactured home.

21        SECTION 17. Sections 1201.352(c) and (d), Occupations Code,  
22 are amended to read as follows:

23        (c) Before the signing of a binding retail installment sales  
24 contract or other binding purchase agreement, the retailer must  
25 give the consumer a copy [~~or a general description~~] of:

26            (1) the manufacturer's warranty; [~~and~~

27 [~~(2) the retailer's warranty.~~

1           ~~[(d) At the time of the initial installation at the~~  
2 ~~consumer's homesite, the retailer shall deliver to the consumer:~~

3                   ~~[(1) the manufacturer's warranty;]~~

4                   (2) the retailer's warranty;

5                   (3) the warranties given by the manufacturers of  
6 appliances or equipment included with the home; and

7                   (4) the name and address of the manufacturer or  
8 retailer to whom the consumer is to give notice of a warranty  
9 service request.

10           SECTION 18. Section 1201.357, Occupations Code, is amended  
11 by adding Subsection (c) to read as follows:

12           (c) If the manufacturer's or retailer's failure to provide  
13 warranty service under Subsection (a) results from an action of the  
14 consumer, the manufacturer or retailer must make that allegation in  
15 the written statement required by Subsection (a). The department  
16 shall investigate the allegation, and if the department determines  
17 that the allegation is credible, the department shall issue a new  
18 order specifying the date and time of the proposed corrective  
19 action. The department shall send the order to the consumer and the  
20 manufacturer or retailer, as applicable, by certified mail, return  
21 receipt requested. If the consumer refuses to comply with the  
22 department's new order, the manufacturer or retailer, as  
23 applicable:

24                   (1) is discharged from the obligations imposed by the  
25 relevant department orders;

26                   (2) has no liability to the consumer; and

27                   (3) is not subject to an action by the department for

1 failure to provide warranty service.

2 SECTION 19. Section 1201.361, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
5 installations not covered by the retailer's warranty described by  
6 Section 1201.352 and for the installation of all used manufactured  
7 homes, the installer shall give the manufactured home owner a  
8 written warranty that the installation of the home was performed in  
9 accordance with all department standards, rules, orders, and  
10 requirements.

11 (b) The warranty must conspicuously disclose the  
12 requirement that the consumer notify the installer of any claim in  
13 writing in accordance with the terms of the warranty. Unless the  
14 warranty provides for a longer period, the installer has no  
15 obligation or liability for a defect described in a written notice  
16 received from the consumer more than two years after the date of the  
17 installation.

18 SECTION 20. Section 1201.405, Occupations Code, is amended  
19 by adding Subsection (e) to read as follows:

20 (e) In determining the amount of actual damages under this  
21 section, the director shall make an independent inquiry as to the  
22 damages actually incurred, unless the damages have been established  
23 by a contested jury trial.

24 SECTION 21. Section 1201.451(a), Occupations Code, is  
25 amended to read as follows:

26 (a) Except as otherwise provided by this subchapter, a  
27 person may not sell, exchange, or lease-purchase a used



1 manufactured home without the appropriate transfer of good and  
2 marketable title to the home [~~unless the sale, exchange, or~~  
3 ~~lease-purchase is to:~~

4 [~~(1) a purchaser for the purchaser's business use, or~~  
5 [~~(2) a rebuilder for the purpose of rebuilding a~~  
6 ~~salvaged manufactured home]~~].

7 SECTION 22. Section 1201.455, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
10 Except as otherwise provided by this subchapter, a person may not  
11 sell, exchange, or lease-purchase a used manufactured home to a  
12 consumer for use as a dwelling without providing a written warranty  
13 that the home is and will remain habitable until the 60th day after  
14 the later of the installation date or the date of the purchase  
15 agreement.

16 (b) Unless, not later than the 65th [~~60th~~] day after the  
17 date of the sale, exchange, or lease-purchase agreement, the  
18 consumer notifies the seller in writing of a defect that makes the  
19 home not habitable, any obligation or liability of the seller under  
20 this subchapter is terminated. The warranty must conspicuously  
21 disclose that notice requirement to the consumer.

22 SECTION 23. The heading to Section 1201.457, Occupations  
23 Code, is amended to read as follows:

24 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
25 OR SALVAGE.

26 SECTION 24. Section 1201.457(b), Occupations Code, is  
27 amended to read as follows:

1           (b) The purchaser of a used manufactured home for business  
2 use or the purchaser of a salvaged manufactured home may not sell,  
3 exchange, or lease-purchase the home for use as a dwelling or allow  
4 any person to occupy or use the home as a dwelling unless the  
5 director issues a new statement of ownership and location  
6 indicating that the home is no longer reserved for business use or  
7 salvage. On the purchaser's application to the department for  
8 issuance of a new statement of ownership and location, the  
9 department shall inspect the home and, if the department determines  
10 that the home is habitable, issue the statement of ownership and  
11 location.

12           SECTION 25. Section 25.08(e), Tax Code, is amended to read  
13 as follows:

14           (e) A manufactured home shall be listed together with the  
15 land on which the home is located if:

16               (1) the statement of ownership and location for the  
17 home issued under Section 1201.207, Occupations Code, and on file  
18 with the Texas Department of Housing and Community Affairs reflects  
19 that the owner has elected to treat the home as real property; and

20               (2) a certified copy of the statement of ownership and  
21 location has been filed in the real property records in the county  
22 in which the home is located.

23           SECTION 26. Section 32.014(d), Tax Code, is amended to read  
24 as follows:

25           (d) If a manufactured home is listed together with the land  
26 on which the manufactured home is located, a taxing unit with  
27 jurisdiction to impose taxes on the land may place a lien on the

1 manufactured home to secure payment of those taxes to the same  
2 extent that it can place a lien on the land by recording a lien under  
3 Section 1201.219, Occupations Code. If a home is moved from its  
4 location and a new statement of ownership and location is not issued  
5 under Section 1201.207, Occupations Code, a taxing unit with  
6 jurisdiction to impose taxes on the land on which the manufactured  
7 home was located retains the right to record and enforce liens on  
8 that home to secure the payment of taxes, regardless of where the  
9 home is currently located.

10 SECTION 27. Section 32.015(a), Tax Code, is amended to read  
11 as follows:

12 (a) On payment of the taxes, penalties, and interest for a  
13 year for which a valid tax lien [~~filed before September 1, 2001,~~]  
14 has been recorded on the title records of the department, the  
15 collector for the taxing unit shall issue a tax certificate showing  
16 no taxes due or a tax paid receipt for such year to the person making  
17 payment. When the tax certificate showing no taxes due or tax paid  
18 receipt is filed with the department, the tax lien is extinguished  
19 and canceled and shall be removed from the title records of the  
20 manufactured home. The collector for a taxing unit may not refuse  
21 to issue a tax paid receipt to the person who offers to pay the  
22 taxes, penalties, and interest for a particular year or years, even  
23 though taxes may also be due for another year or other years.

24 SECTION 28. Section 32.03, Tax Code, is amended by amending  
25 Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to  
26 read as follows:

27 (a) Except as provided by Subsection (a-1), a [A] tax lien

1 may not be enforced against personal property transferred to a  
2 buyer in ordinary course of business as defined by Section 1.201(9)  
3 of the Business & Commerce Code for value who does not have actual  
4 notice of the existence of the lien [~~or, if the personal property is~~  
5 ~~a manufactured home, who does not have constructive notice of the~~  
6 ~~existence of the lien~~].

7 (a-1) A tax lien against a manufactured home may not be  
8 enforced unless it has been recorded with the department as  
9 provided by Section 1201.219, Occupations Code:

10 (1) before October 1, 2005; or

11 (2) not later than six months after the end of the year  
12 for which the tax was owed.

13 (a-2) A person may not transfer title of a manufactured home  
14 until all tax liens perfected on the home have been satisfied and  
15 released. This subsection does not apply to the sale of a  
16 manufactured home in inventory.

17 (b) A bona fide purchaser for value or the holder of a lien  
18 recorded on the manufactured home statement of ownership and  
19 location [~~document of title~~] is not required to pay any taxes  
20 imposed in a tax year that begins before January 1, 2001, or  
21 penalties or interest on those taxes except for each year for which  
22 a valid tax lien was duly filed and recorded under Section 32.015,  
23 as that section existed on the date the lien was filed, and each  
24 year for which the owner of the manufactured home had constructive  
25 notice of the taxes under Section 32.015(e), as that section  
26 existed before September 1, 2001. The effect and priority of a tax  
27 lien that attaches to secure the payment of taxes imposed on a

1 manufactured home in a tax year that begins on or after January 1,  
2 2001, are those established by Sections 32.01 and 32.05. In this  
3 section, "manufactured home" has the meaning assigned by Section  
4 32.015(b).

5 SECTION 29. The following laws are repealed:

6 (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
7 1201.215, 1201.219(d), and 1201.222(b), Occupations Code;

8 (2) Sections 32.03(c)-(j), Tax Code; and

9 (3) Section 623.093(d), Transportation Code.

10 SECTION 30. The changes in law made by this Act to  
11 provisions of the Tax Code apply only to an ad valorem tax year that  
12 begins on or after January 1, 2006. The changes in law made to those  
13 provisions do not affect a tax lien that attached to property for a  
14 tax year that began before January 1, 2006, and the law in effect  
15 immediately before January 1, 2006, is continued in effect for  
16 purposes of the tax lien.

17 SECTION 31. This Act takes effect September 1, 2005.

# HOUSE COMMITTEE REPORT

05 APR 15 PM 7:34  
HOUSE OF REPRESENTATIVES

1<sup>st</sup> Printing

By: Haggerty, Quintanilla

H.B. No. 2438

Substitute the following for H.B. No. 2438:

By: Jones of Lubbock

C.S.H.B. No. 2438

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SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary [~~+~~] and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the

issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of

certification and continuing education programs not later than the 90th day after the date the salesperson's initial license is issued. To renew a salesperson's license, a salesperson ~~[Persons]~~ regulated under this chapter ~~[and directly involved in the sale of manufactured housing]~~ must complete an additional eight hours of certification and continuing education programs for each renewal ~~[each year]~~. The programs must be presented by a board-approved organization or educational institution and must include instruction in applicable ~~[address]~~ state and federal law, ~~[applicable to all manufactured housing retailer practices and relevant]~~ consumer protection regulations, and ethical standards.

(g) The board shall suspend the license of a salesperson ~~[person]~~ regulated under this chapter who does not complete the programs as required by this section. The board shall reinstate the license on the salesperson's ~~[person's]~~ completion of the programs.

SECTION 6. Section 1201.114(a), Occupations Code, is amended to read as follows:

(a) A manufacturer's, retailer's, broker's, or installer's license is valid for one year. A salesperson's license is valid for two years. A license ~~[and]~~ may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.

SECTION 7. Section 1201.151(d), Occupations Code, is amended to read as follows:

(d) This section does not apply to:

(1) a deposit held in escrow in a real estate



transaction; or

(2) money stated to be a down payment in an executed retail ~~[installment]~~ sales contract.

SECTION 8. Section 1201.159(a), Occupations Code, is amended to read as follows:

(a) A broker shall ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer ~~[may but is not required to be the agent of a party involved in the sale, exchange, or lease-purchase of a manufactured home for which a statement of ownership and location has been issued and is outstanding]~~.

SECTION 9. Sections 1201.163(a) and (b), Occupations Code, are amended to read as follows:

(a) In addition to the disclosure statement required by Section 1201.162, the department shall adopt rules creating a one-page form printed in at least 12-point type that addresses ~~[addressing]~~ consumer protection disclosures required in chattel mortgage transactions and shall prescribe the form for the disclosure statement. A consumer protection disclosure statement under this subsection may not contain any blank lines and must contain only ~~[include]~~ the following:

(1) a statement of the significant differences between chattel mortgages and real estate mortgages;

(2) an itemization of typical ~~[estimated closing]~~ costs associated with a chattel mortgage purchase of a manufactured home ~~[, if any]~~;

(3) an example ~~[estimate of the total amount]~~ of monthly payments in three typical chattel mortgage transactions, including an estimate of the amount of the [+

~~[(A)] principal, [and] interest, [payments,~~  
~~[(B) costs of any]~~ required insurance premium, [+] and

~~[(C) costs for payment of]~~ ad valorem taxes[, ~~based on the current tax rate of each taxing unit in which the manufactured home will be located as applied to the sales price of the manufactured home]~~];

(4) a statement of the roles of the retailer and any affiliated parties in the financing of the first retail sale, as defined by Section 1201.201, and the estimated compensation that they will receive for providing or arranging the financing; and

(5) any other disclosures required by state or federal law, including the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

(b) A retailer shall provide the consumer protection disclosure statement to the consumer ~~[at least 24 hours]~~ before the completion of the first credit application ~~[installment contract is fully executed, as provided by Section 1201.164]~~.

SECTION 10. Section 1201.164(a), Occupations Code, is amended to read as follows:

(a) In a chattel mortgage transaction involving an installment contract, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed ~~[the~~

~~disclosure statements required by this subchapter and]~~ the contract, with all required information included, signed by the retailer. The delivery of the ~~[disclosure statements and]~~ installment contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. The consumer may accept the offer not earlier than 24 hours after the delivery of the contract [documents]. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

SECTION 11. Section 1201.2055, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) If ~~[the department issues a statement of ownership and location to]~~ an owner elects ~~[who has elected]~~ to treat a manufactured home as real property, the department shall issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, the owner must:

(1) file the certified copy in the real property records of the county in which the home is located; and

(2) notify the department that the certified copy has been filed.

(e) A ~~[the]~~ manufactured home is not considered to be real property until a certified copy of the statement of ownership and

1 location has been filed and the department has been notified of the  
2 filing as provided by Subsection (d).

3 (f) If the department is notified under Subsection (d), the  
4 department in a timely manner shall note in its records that a real  
5 property election has been perfected. If the department is not  
6 notified as described by Subsection (d), the department shall note  
7 in its records that a real property election has not been perfected  
8 and that the home remains personal property [~~in the real property~~  
9 ~~records of the county in which the home is located~~].

10 (g) After the department notes in its records that a real  
11 property election has been perfected [~~certified copy has been filed~~  
12 ~~in the real property records of the county~~], the home is considered  
13 to be real property for all purposes [~~in the form of an improvement~~  
14 ~~to the underlying real property on which the home is located. If a~~  
15 ~~real property election has been made but a certified copy of the~~  
16 ~~statement of ownership and location has not been filed as required~~  
17 ~~by this subsection, the home continues to be treated as personal~~  
18 ~~property until the certified copy is filed~~].

19 (h) The provisions of this chapter relating to the  
20 construction or installation of a manufactured home or to  
21 warranties for a manufactured home apply to a home regardless of  
22 whether the home is considered to be real or personal property.

23 SECTION 12. Sections 1201.206(d) and (e), Occupations Code,  
24 are amended to read as follows:

25 (d) Not later than the 30th day after the date of each [~~At a~~]  
26 subsequent sale or transfer of a [~~the~~] home that is considered to be  
27 personal property, the seller [~~purchaser~~] or transferor

1 ~~[transferee]~~ shall provide to the department a completed  
2 application ~~[apply]~~ for the issuance of a new statement of  
3 ownership and location. The subsequent sale or transfer of a home  
4 that is considered to be real property is treated as a sale or  
5 transfer of real property and is not subject to regulation by the  
6 department.

7 (e) Ownership of a manufactured home does not pass or vest  
8 at the first retail ~~[a]~~ sale ~~[or transfer]~~ of the home until a  
9 completed application for the issuance of a statement of ownership  
10 and location is filed with the department. Ownership of a  
11 manufactured home that is considered to be personal property does  
12 not pass or vest at a subsequent sale or transfer of the home until a  
13 completed application for the issuance of a statement of ownership  
14 and location is filed with the department.

15 SECTION 13. Section 1201.207(a), Occupations Code, is  
16 amended to read as follows:

17 (a) The department shall process any completed application  
18 for the issuance of a statement of ownership and location not later  
19 than the 15th ~~[10th]~~ working day after the date the application is  
20 received by the department. If the department rejects an  
21 application, the department shall provide a clear and complete  
22 explanation of the reason for the rejection and instructions on how  
23 to cure any defects, if possible.

24 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
25 is amended by adding Section 1201.2076 to read as follows:

26 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
27 PROPERTY. The department may not issue a statement of ownership and

1 location for a manufactured home that is being converted from real  
2 property to personal property until:

3 (1) each lien on the home is released by the  
4 lienholder; or

5 (2) each lienholder gives written consent, to be  
6 placed on file with the department.

7 SECTION 15. Section 1201.209, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
10 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.  
11 The department may not refuse to issue a statement of ownership and  
12 location and may not suspend or revoke a statement of ownership and  
13 location unless:

14 (1) the application for issuance of the statement of  
15 ownership and location contains a false or fraudulent statement,  
16 the applicant failed to provide information required by the  
17 director, or the applicant is not entitled to issuance of the  
18 statement of ownership and location;

19 (2) the director has reason to believe that the  
20 manufactured home is stolen or unlawfully converted, or the  
21 issuance of a statement of ownership and location would defraud the  
22 owner or a lienholder of the manufactured home;

23 (3) the director has reason to believe that the  
24 manufactured home is salvaged, and an application for the issuance  
25 of a new statement of ownership and location that indicates that the  
26 home is salvaged has not been filed;

27 (4) the required fee has not been paid;

1           (5) the state sales and use tax has not been paid in  
2 accordance with Chapter 158, Tax Code, and Section 1201.208; or

3           (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
4 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
5 ~~that section existed on the date the lien was filed,~~] and the lien  
6 has not been extinguished.

7           SECTION 16. Sections 1201.216(a) and (b), Occupations Code,  
8 are amended to read as follows:

9           (a) If the owner of a manufactured home notifies the  
10 department that the owner intends to treat the home as real property  
11 or to reserve its use for a business purpose or salvage, the [The]  
12 department shall indicate on the statement of ownership and  
13 location for the [a manufactured] home that:

14           (1) the owner of the home has elected to treat the home  
15 as real property or to reserve its use for a business purpose or  
16 salvage; and

17           (2) except as provided by Section 1201.2055(h), the  
18 department no longer considers the home to be a manufactured home  
19 for purposes of regulation under this chapter ~~[whether the home has~~  
20 ~~been sold, exchanged, or lease-purchased to a purchaser for the~~  
21 ~~purchaser's business use. For a home sold, exchanged, or~~  
22 ~~lease-purchased as described by this subsection, the department~~  
23 ~~shall issue a new statement of ownership and location that~~  
24 ~~indicates that the home is reserved for business use].~~

25           (b) On application and subject to Sections 1201.2076 and  
26 1201.209, the department shall ~~[may]~~ issue for the structure  
27 described in the application a new statement of ownership and

1 location restoring the structure's designation as a manufactured  
2 [for the] home only after an inspection and determination that the  
3 structure [home] is habitable as provided by Section 1201.453.  
4 [The statement must indicate that the home is no longer reserved for  
5 business use.]

6 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,  
7 is amended by adding Section 1201.217 to read as follows:

8 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
9 of real property on which a manufactured home owned by another is  
10 located may declare the home abandoned as provided by this section  
11 if the home has been continuously unoccupied for at least six  
12 months.

13 (b) Before declaring a manufactured home abandoned, the  
14 owner of real property on which the home is located must send a  
15 notice of intent to declare the home abandoned to the owner of the  
16 home and all lienholders at the addresses listed on the home's  
17 statement of ownership and location on file with the department.  
18 Mailing of the notice by certified mail, return receipt requested,  
19 postage prepaid, to the persons required to be notified by this  
20 subsection constitutes conclusive proof of compliance with this  
21 subsection.

22 (c) On receipt of a notice of intent to declare a  
23 manufactured home abandoned, the owner of the home or a lienholder  
24 may freely enter the real property on which the home is located to  
25 remove the home.

26 (d) If the manufactured home remains on the real property  
27 for at least 45 days after the date the notice is postmarked:



1           (1) all liens on the home are extinguished; and

2           (2) the real property owner may declare the home  
3 abandoned and may apply to the department for a statement of  
4 ownership and location listing the real property owner as the owner  
5 of the manufactured home.

6           (e) A new statement of ownership and location issued by the  
7 department under this section transfers, free of any liens, title  
8 to the manufactured home to the real property owner.

9           SECTION 18. Section 1201.219(b), Occupations Code, is  
10 amended to read as follows:

11           (b) Except as provided by Subsection (a), a lien on a  
12 manufactured home is perfected only by filing with the department  
13 the notice of lien on a form provided by the department. The  
14 recordation of a lien with the department is notice to all persons  
15 that the lien exists. Except as expressly provided by Chapter 32,  
16 Tax Code, a lien recorded with the department has priority,  
17 according to the chronological order of recordation, over another  
18 lien or claim against the manufactured home.

19           SECTION 19. Section 1201.221(a), Occupations Code, is  
20 amended to read as follows:

21           (a) On written request, the department shall provide  
22 information held by the department on:

23                   (1) the current ownership and location of a  
24 manufactured home; and

25                   (2) the existence of any tax lien on that home for  
26 which notice has been filed with the department.

27           SECTION 20. Sections 1201.352(c) and (d), Occupations Code,

are amended to read as follows:

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement, the retailer must give the consumer a copy ~~[or a general description]~~ of:

(1) the manufacturer's warranty; ~~and~~

~~[(2) the retailer's warranty.]~~

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:~~

~~[(1) the manufacturer's warranty,]~~

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return

1 receipt requested. If the consumer refuses to comply with the  
2 department's new order, the manufacturer or retailer, as  
3 applicable:

4 (1) is discharged from the obligations imposed by the  
5 relevant department orders;

6 (2) has no liability to the consumer; and

7 (3) is not subject to an action by the department for  
8 failure to provide warranty service.

9 SECTION 22. Section 1201.361, Occupations Code, is amended  
10 to read as follows:

11 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
12 installations not covered by the retailer's warranty described by  
13 Section 1201.352 and for the installation of all used manufactured  
14 homes, the installer shall give the manufactured home owner a  
15 written warranty that the installation of the home was performed in  
16 accordance with all department standards, rules, orders, and  
17 requirements.

18 (b) The warranty must conspicuously disclose the  
19 requirement that the consumer notify the installer of any claim in  
20 writing in accordance with the terms of the warranty. Unless the  
21 warranty provides for a longer period, the installer has no  
22 obligation or liability for any defect described in a written  
23 notice received from the consumer more than two years after the date  
24 of the installation.

25 SECTION 23. Section 1201.405, Occupations Code, is amended  
26 by adding Subsection (e) to read as follows:

27 (e) In determining the amount of actual damages under this

1 section, the director shall make an independent inquiry as to the  
2 damages actually incurred, unless the damages have been established  
3 by a contested jury trial.

4 SECTION 24. Section 1201.451(a), Occupations Code, is  
5 amended to read as follows:

6 (a) Except as otherwise provided by this subchapter, a  
7 person may not sell, exchange, or lease-purchase a used  
8 manufactured home without the appropriate transfer of good and  
9 marketable title to the home [~~unless the sale, exchange, or~~  
10 ~~lease-purchase is to:~~

11 [~~(1) a purchaser for the purchaser's business use; or~~  
12 [~~(2) a rebuilder for the purpose of rebuilding a~~  
13 ~~salvaged manufactured home]~~].

14 SECTION 25. Section 1201.455, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
17 Except as otherwise provided by this subchapter, a person may not  
18 sell, exchange, or lease-purchase a used manufactured home to a  
19 consumer for use as a dwelling without providing a written warranty  
20 that the home is and will remain habitable until the 60th day after  
21 the later of the installation date or the date of the purchase  
22 agreement.

23 (b) Unless, not later than the 65th [~~60th~~] day after the  
24 date of the sale, exchange, or lease-purchase agreement, the  
25 consumer notifies the seller in writing of a defect that makes the  
26 home not habitable, any obligation or liability of the seller under  
27 this subchapter is terminated. The warranty must conspicuously

1 disclose that notice requirement to the consumer.

2 SECTION 26. The heading to Section 1201.457, Occupations  
3 Code, is amended to read as follows:

4 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
5 OR SALVAGE.

6 SECTION 27. Section 1201.457(b), Occupations Code, is  
7 amended to read as follows:

8 (b) The purchaser of a used manufactured home for business  
9 use or the purchaser of a salvaged manufactured home may not sell,  
10 exchange, or lease-purchase the home for use as a dwelling or allow  
11 any person to occupy or use the home as a dwelling unless the  
12 director issues a new statement of ownership and location  
13 indicating that the home is no longer reserved for business use or  
14 salvage. On the purchaser's application to the department for  
15 issuance of a new statement of ownership and location, the  
16 department shall inspect the home and, if the department determines  
17 that the home is habitable, issue the statement of ownership and  
18 location.

19 SECTION 28. Section 32.015(a), Tax Code, is amended to read  
20 as follows:

21 (a) On payment of the taxes, penalties, and interest for a  
22 year for which a valid tax lien [~~filed before September 1, 2001,~~]  
23 has been recorded on the title records of the department, the  
24 collector for the taxing unit shall issue a tax certificate showing  
25 no taxes due or a tax paid receipt for such year to the person making  
26 payment. When the tax certificate showing no taxes due or tax paid  
27 receipt is filed with the department, the tax lien is extinguished

1 and canceled and shall be removed from the title records of the  
2 manufactured home. The collector for a taxing unit may not refuse  
3 to issue a tax paid receipt to the person who offers to pay the  
4 taxes, penalties, and interest for a particular year or years, even  
5 though taxes may also be due for another year or other years.

6 SECTION 29. Section 32.03, Tax Code, is amended by amending  
7 Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to  
8 read as follows:

9 (a) Except as provided by Subsection (a-1), a [A] tax lien  
10 may not be enforced against personal property transferred to a  
11 buyer in ordinary course of business as defined by Section 1.201(9)  
12 of the Business & Commerce Code for value who does not have actual  
13 notice of the existence of the lien ~~[or, if the personal property is~~  
14 ~~a manufactured home, who does not have constructive notice of the~~  
15 ~~existence of the lien]~~.

16 (a-1) A tax lien against a manufactured home may not be  
17 enforced unless it has been recorded with the Texas Department of  
18 Housing and Community Affairs as provided by Section 1201.219,  
19 Occupations Code:

20 (1) before October 1, 2005; or

21 (2) not later than six months after the end of the year  
22 for which the tax was owed.

23 (a-2) A person may not transfer title of a manufactured home  
24 until all tax liens perfected on the home have been extinguished or  
25 satisfied and released. This subsection does not apply to the sale  
26 of a manufactured home in inventory.

27 (b) A bona fide purchaser for value or the holder of a lien

recorded on the manufactured home statement of ownership and location [~~document of title~~] is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs [~~imposed in a tax year that begins before January 1, 2001, or penalties or interest on those taxes except for each year for which a valid tax lien was duly filed and recorded under Section 32.015, as that section existed on the date the lien was filed, and each year for which the owner of the manufactured home had constructive notice of the taxes under Section 32.015(e), as that section existed before September 1, 2001. The effect and priority of a tax lien that attaches to secure the payment of taxes imposed on a manufactured home in a tax year that begins on or after January 1, 2001, are those established by Sections 32.01 and 32.05]~~. In this section, "manufactured home" has the meaning assigned by Section 32.015(b).

SECTION 30. The following laws are repealed:

(1) Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code;

(2) Sections 32.014(d) and 32.03(c)-(j), Tax Code; and

(3) Section 623.093(d), Transportation Code.

SECTION 31. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

April 6, 2005  
(date)

Sir:  
We, your COMMITTEE ON LICENSING AND ADMINISTRATIVE PROCEDURES

to whom was referred HB 2438 have had the same under consideration and beg to report back with the recommendation that it

- ☐ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

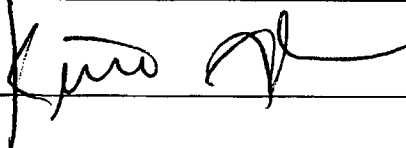
Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Flores, Chair	X			
Geren, Vice-chair				X
Chisum				X
Goolsby	X			
Hamilton	X			
Homer	X			
Jones, D.	X			
Morrison	X			
Quintanilla	X			

Total      7      aye  
                 0      nay  
                 0      present, not voting  
                 2      absent

CHAIR 



## **BILL ANALYSIS**

C.S.H.B. 2438

By: Haggerty

Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Manufactured Housing Act was originally created by the Texas Legislature in the mid 1970's and codified into the Occupations Code in 2003. During this time the industry has experienced significant change along with amendments to both the Texas Act and the preemptive Federal Manufactured Housing Standards Act.

C.S.H.B. 2438 will update language to reflect current industry trends, delete language that is no longer applicable, reference Federal mandates, preserve consumer protections, and raises addresses continuing education requirements.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 1201.101(f), Occupations Code, prohibits a person from selling manufactured housing unless they hold a salespersons license. Prohibits a salesperson from participating in the sale of a home unless the sale is through the retailer who sponsored the salesperson's license application.

SECTION 2. Amends Section 1201.103(d), Occupations Code, requires the application for a license to be sponsored by a licensed, bonded retailer.

SECTION 3. Amends Section 1201.106(a), Occupations Code, requires an applicant or license holder to file a bond for the issuance or renewal of a license for \$50,000, rather than \$20,000, for a broker.

SECTION 4. Amends Section 1201.107, Occupations Code, by adding Subsection (d), requiring a retailer or broker who offers or participates in the sale of a manufactured home to identify the bond on file in conjunction with the person's license and provide contractually in the sales transaction that the bond applies to the sale, if the sale is at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale.

SECTION 5. Amends Section 1201.113(a), (b), (e) and (g), Occupations Code, as follows:

(a) requires the board to recognize, prepare, or administer certification and continuing education programs for salespersons, rather than persons, regulated under this chapter.

(b) requires a person who holds a salesperson's license, rather than license holder, to participate in certification and continuing education programs as provided by Subsection (e).

(e) requires a salesperson to complete eight hours of certification and continuing education programs not later than the 90th day after the date the salesperson's initial license is issued. Requires a salesperson, to renew a salesperson's license, must complete an additional eight hours of certification and continuing education programs for each renewal, rather than each year. Requires the programs be presented by a board-approved organization or educational institution and include instruction in applicable state and federal law, consumer protection regulations, and ethical standards.

(g) requires the board to suspend the license of a salesperson who does not complete the programs. Requires the board to reinstate the license on the salesperson's completion of the programs.

SECTION 6. Amends Section 1201.114(a), Occupations Code, provides that a manufacturer's, retailer's, broker's, or installer's license is valid for one year. Provides that a salesperson's license is valid for two years. Authorizes a license to be renewed as provided by the director. Prohibits a license that has been suspended, revoked, or expired from engaging in activities that require a license until the license has been reinstated or renewed.

SECTION 7. Amends Section 1201.151(d), Occupations Code, provides that this section does not apply to money stated to be a down payment in an executed retail, rather than installment, sales contract.

SECTION 8. Amends Section 1201.159(a), Occupations Code, requires a broker to ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer. Strikes language authorizing a broker to be the agent involved in the sale, exchanged, or lease-purchase of a manufactured home.

SECTION 9. Amends Sections 1201.163 (a) and (b), Occupations Code, as follows:

(a) Requires the department to adopt rules creating a one-page form printed in at least 12-point type that addresses consumer protection disclosures required in chattel mortgage transactions and requires them to prescribe the form for the disclosure statement. Prohibits a consumer disclosure statement under this section from containing any blank lines and must contain only the following information:

- (1) a statement of the significant differences between chattel mortgages and real estate mortgages;
- (2) an itemization of typical costs, rather than estimated closing costs, associated with a chattel mortgage purchase of a manufactured home;
- (3) an example, rather than estimate of the total amount, of monthly payments in three typical chattel mortgage transactions, including an estimate of the amount of the principal, interest required insurance premium, and ad valorem taxes. Strikes language requiring the ad valorem taxes to be based on the current tax rate of each taxing unit in which the manufactured home will be located as applied to the sales price of the manufactured home.

(b) Requires a retailer to provide the consumer protection disclosure statement to the consumer before the completion of the first credit application, rather than at least 24 hours before the installment contract is fully executed.

SECTION 10. Amends Section 1201.164(a), Occupations Code, authorizes the retailer to withdraw the offer if the consumer has not accepted the offer within 72 hours after the delivery of the contract. Strikes language requiring the retailer to deliver disclosure statements required by this subchapter to the consumer. Makes conforming changes.

SECTION 11. Amends Section 1201.2055, Occupations Code, by amending Subsection (d) and adding Subsections (e), (f), (g), and (h), as follows:

(d) Requires the department to issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Requires the owner to file the certified copy in the real property records of the county in which the home is located; and notify the department that the certified copy has been filed, no later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner.

(e) Provides that a manufactured home is not considered to be real property until a certified copy of the statement of ownership and location has been filed and the department has been notified of the filing as provided by Subsection (d).

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(f) Requires the department in a timely manner to note in its records that a real property election has been perfected, if the department is notified under Subsection (d). Requires the department to note in its records that a real property election has not been perfected and that the home remains personal property, if the department is not notified as described by Subsection (d).

(g) Provides that after the department notes in its records that a real property election has been perfected, the home is considered to be real property for all purposes. Makes conforming changes.

(h) Provides that the provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

**SECTION 12.** Amends Sections 1201.206 (d) and (e), Occupations Code, as follows:

(d) requires the seller or transferor to provide to the department a completed application for the issuance of a new statement of ownership and location no later than the 30<sup>th</sup> day after the date of each subsequent sale or transfer of a home that is considered to be personal property. Provides that the subsequent sale or transfer of a home that is considered to be real property is treated as a sale or transfer of real property and is not subject to regulation by the department.

(e) Ownership of a manufactured home does not pass or vest at the first retail sale of the home until a completed application for the issuance of a statement of ownership and location is filed with the department. Provides that ownership of a manufactured home that is considered to be personal property does not pass or vest at a subsequent sale or transfer of the home until a completed application for the issuance of a statement of ownership and location is filed with the department.

**SECTION 13.** Amends Section 1201.207 (a), Occupations Code, requires the department to process any completed application for the issuance of a statement of ownership and location not later than the 15<sup>th</sup>, rather than 10<sup>th</sup>, working day after the date the application is received by the department. Requires the department, if the department rejects an application, to provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

**SECTION 14.** Amends Subchapter E, Chapter 1201, Occupations Code, as follows:

**Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY.** Prohibits the department from issuing a statement of ownership and location for a manufactured home being converted from real property to personal property until each lien on the home is released by the lienholder; or each lienholder gives written consent, to be placed on file with the department.

**SECTION 15.** Amends Section 1201.209 (6), Occupations Code, prohibits the department to refuse to issue a statement of ownership and location and prohibits the suspension or revocation of a statement of ownership and location unless a tax lien, rather than local tax lien, was filed and recorded under Section 1201.219, rather than 32.015, Tax Code, and the lien has not been extinguished.

**SECTION 16.** Amends Sections 1201.216 (a) and (b), Occupations Code, as follows:

(a) Requires the department to indicate on the statement of ownership and location for the home that the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and except as provided by Section 1201.2055 (h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter, if the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage. Strikes language requiring a statement whether the home has been sold, exchanged, or lease-purchased to a purchaser for the purchaser's business use; and requiring the department to issue a new statement of ownership and location that indicates that the home is reserved for business use.

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(b) Requires, rather than authorizes, on application and subject to Sections 1201.2076 and 1201.209, the department to issued for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured home only after an inspection and determination that the structure is habitable as provided by Section 1201.453.

**SECTION 17.** Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.217, as follows:

**Sec. 1201.217. MANUFACTURED HOME ABANDONED.** (a) Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned as provided by this section if the home has been continuously unoccupied for at least six months.

(b) Requires the owner of real property on which the home is located to send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department, before declaring a manufactured home abandoned. Provides that mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) Authorizes the owner of the home or a lienholder to freely enter the real property on which the home is located to remove the home on receipt of a notice of intent to declare a manufactured home abandoned.

(d) Provides that if the manufactured home remains on the real property for at least 45 days after the date the notice is postmarked:

(1) all liens on the home are extinguished; and

(2) the real property owner may declare the home abandoned and may apply to the department for a statement of ownership and location listing the real property owner as the owner of the manufactured home.

(e) Provides that a new statement of ownership and location issued by the department under this section transfers, free of any liens, title to the manufactured home to the real property owner.

**SECTION 18.** Amends Section 1201.219 (b), Occupations Code, provides that except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department.

**SECTION 19.** Amends Section 1201.221 (a), Occupations Code, requires the department, on written request, to provide information on the current ownership and location of a manufactured home.

**SECTION 20.** Amends Sections 1201.352 (c) and (d), Occupations Code, as follows:

(c) Requires the retailer to give the consumer a copy, rather than a general description, of certain information before the signing of a binding retail installment sales contract or other binding purchase agreement.

**SECTION 21.** Amends Section 1201.357, Occupations Code, by adding Subsection (c), requires the manufacturer or retailer to make the allegation in the written statement required by Subsection (a), if the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer. Requires the department to investigate the allegation, and if the department determines that the allegation is credible, the department is required to issue a new order specifying the date and time of the proposed corrective action. Required the department to send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return receipt requested. Provides that if the consumer refuses to comply with the department's new order, the manufacturer or retailer, as applicable:

(1) is discharged from the obligation imposed by the relevant department orders;

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- (2) has no liability to the consumer; and
- (3) is not subject to an action by the department for failure to provide warranty service.

SECTION 22. Amends Section 1201.361 (b), Occupations Code, requires the warranty to conspicuously disclose the requirements that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Provides that unless the warranty provides for a longer period, the installer has no obligation or liability for any defect described in a written notice received from the consumer more than two years after the date of the installation.

SECTION 23. Amends Section 1201.405, Occupations Code, requires the director to make an independent inquiry of damages actually incurred, unless the damages have been established by a contested jury trial in determining the amount of actual damages under this section.

SECTION 24. Amends Section 1201.451(a), Occupations Code, prohibits a person from selling, exchanging, or lease-purchasing a used manufactured home without the appropriate transfer of good and marketable title to the home, except as otherwise provided by this subchapter. Strikes language allowing the a person to sell, exchange, or lease-purchase a used manufactured home without the appropriate transfer of good and marketable title to the home.

Section 25. Amends Section 1201.455, Occupations Code, requires the warranty of habitability is in force for 60 days after the date of installation or the date of the purchase agreement. Unless not later than the 65<sup>th</sup> day after the sale, exchange or lease-purchase the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated.

SECTION 26. Amends Section 1201.457, Occupations Code, by changing the heading to include salvaged homes.

SECTION 27. Amends Section 1201.457(b), Occupations Code, prohibits a person purchasing a used manufactured home for business use or the purchaser of a salvaged manufactured home to allow any person to occupy or use the home as a dwelling.

SECTION 28. Amends Section 32.015(a), Tax Code, deletes the September 1, 2001 date for filing tax liens.

SECTION 29. Amends Section 32.03, Tax Code, creating a time frame for filing liens with the department and prohibits the selling of a manufactured home with paying off any and all liens against the statement of ownership and location.

SECTION 30. Repeals various sections of the Occupations Code, and one section of the Transportation Code and Tax Code.

SECTION 31. Effective date: Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

#### **EFFECTIVE DATE**

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

As originally filed, HB2438 affected current provisions of the Occupations Code, the Tax Code and the Transportation Code. Since manufactured housing is regulated by provisions in each of these codes it is important that verbiage be consistent from code to code to avoid any confusion on the part of industry participants, state regulators and taxing entities. After a thorough review of the initial draft from Legislative Council and comparing that draft with various provisions of current statute, it became apparent that the proposals originally drafted into CSHB 2438 needed further clarification to ensure the bill met with its legislative intent. In order to clarify its intent and avoid creating unintended conflicts with existing statute it became necessary to produce a committee substitute.

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The only substantive difference between the original version and the committee substitute is the effective dates concerning property taxes. As it refers to property taxes, the intent of CSHB 2438 is to establish standard guidelines to ensure the proper collection of taxes. In order for that to occur it is important that all tax, both current and delinquent, be subject to the same procedures once this bill becomes law. The original version of this bill created a situation in which it would be necessary to treat taxes differently depending on the year in which the tax originated and would likely create a great deal of confusion. The committee substitute treats subjects al taxes to one procedure.

# SUMMARY OF COMMITTEE ACTION

HB 2438

April 6, 2005

8:00AM

Considered in public hearing

Committee substitute considered in committee

Testimony taken in committee (See attached witness list.)

Reported favorably as substituted

x 7

WITNESS LIST

HB 2438  
HOUSE COMMITTEE REPORT  
Licensing & Administrative Procedures Committee

April 6, 2005 - 8:00AM

Committee Substitute (D. Jones/CSHB 2438)

For: Anderson, Jody (Self and Texas Manufactured Housing  
Association)  
Against: Caraway, Luanne (Tax Assessor-Collector Association)  
Garrett, Rovin (Tax Assessor Collectors Assn. of Texas)



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 11, 2005**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (relating to the acquisition and regulation of manufactured homes. ),  
**Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

**Local Government Impact**

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 5, 2005**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (Relating to the acquisition and regulation of manufactured homes.),  
**As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

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The bill would take effect on September 1, 2005.

**Local Government Impact**

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

**LBB Staff:** JOB, JRO, MW, TG

ADOPTED

APR 27 2005

Re. [unclear]  
Chief Clerk  
House of Representatives

AS amended

By:

~~Haggerty~~

Substitute the following for H.B. No. 2438:

By:

~~Delwin Jones~~

~~H.B. No. 2438~~

~~C.S. H.B. No. 2435~~

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license ~~[is a license holder]~~. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides ~~[providing]~~ any information the director considers necessary ~~[+]~~ and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the

1 issuance or renewal of a license in the following amount:

- 2 (1) \$100,000 for a manufacturer;
- 3 (2) \$50,000 for a retailer;
- 4 (3) \$30,000 for a rebuilder;
- 5 (4) \$50,000 [~~\$20,000~~] for a broker; or
- 6 (5) \$10,000 for an installer.

7 SECTION 4. Section 1201.107, Occupations Code, is amended  
8 by adding Subsection (d) to read as follows:

9 (d) If a retailer or broker offers for sale or participates  
10 in any way in the sale of a manufactured home at a location other  
11 than an undivided parcel of real property where more than one  
12 manufactured home is located and offered for sale, exchange, or  
13 lease-purchase by a retailer or broker to the public, the retailer  
14 or broker must:

15 (1) identify the bond on file with the department in  
16 conjunction with that person's license; and

17 (2) provide contractually in the sales transaction  
18 that the identified bond applies to the sale.

19 SECTION 5. Sections 1201.113(a), (b), (e), and (g),  
20 Occupations Code, are amended to read as follows:

21 (a) The board shall recognize, prepare, or administer  
22 certification and continuing education programs for salespersons  
23 [~~persons~~] regulated under this chapter.

24 (b) A person who holds a salesperson's license [~~holder~~] must  
25 participate in certification and continuing education programs as  
26 provided by Subsection (e).

27 (e) A salesperson must complete eight hours of

1 certification and continuing education programs not later than the  
2 90th day after the date the salesperson's initial license is  
3 issued. To renew a salesperson's license, a salesperson ~~[Persons]~~  
4 ~~regulated under this chapter [and directly involved in the sale of~~  
5 ~~manufactured housing]~~ must complete an additional eight hours of  
6 certification and continuing education programs for each renewal  
7 ~~[each year].~~ The programs must be presented by a board-approved  
8 organization or educational institution and must include  
9 instruction in applicable ~~[address]~~ state and federal law,  
10 ~~[applicable to all manufactured housing retailer practices and~~  
11 ~~relevant]~~ consumer protection regulations, and ethical standards.

12 (g) The board shall suspend the license of a salesperson  
13 ~~[person]~~ regulated under this chapter who does not complete the  
14 programs as required by this section. The board shall reinstate the  
15 license on the salesperson's ~~[person's]~~ completion of the programs.

16 SECTION 6. Section 1201.114(a), Occupations Code, is  
17 amended to read as follows:

18 (a) A manufacturer's, retailer's, broker's, or installer's  
19 license is valid for one year. A salesperson's license is valid for  
20 two years. A license ~~[and]~~ may be renewed as provided by the  
21 director. A person whose license has been suspended or revoked or  
22 whose license has expired may not engage in activities that require  
23 a license until the license has been reinstated or renewed.

24 SECTION 7. Section 1201.151(d), Occupations Code, is  
25 amended to read as follows:

26 (d) This section does not apply to:

27 (1) a deposit held in escrow in a real estate

1 transaction; or

2 (2) money stated to be a down payment in an executed  
3 retail [~~installment~~] sales contract.

4 SECTION 8. Section 1201.159(a), Occupations Code, is  
5 amended to read as follows:

6 (a) A broker shall ensure that the seller gives the buyer  
7 the applicable disclosures and warranties that the buyer would have  
8 received if the buyer had purchased the manufactured home through a  
9 licensed retailer [~~may but is not required to be the agent of a~~  
10 ~~party involved in the sale, exchange, or lease-purchase of a~~  
11 ~~manufactured home for which a statement of ownership and location~~  
12 ~~has been issued and is outstanding~~].

13 SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
14 are amended to read as follows:

15 (a) In addition to the disclosure statement required by  
16 Section 1201.162, the department shall adopt rules creating a  
17 one-page form printed in at least 12-point type that addresses  
18 [~~addressing~~] consumer protection disclosures required in chattel  
19 mortgage transactions and shall prescribe the form for the  
20 disclosure statement. A consumer protection disclosure statement  
21 under this subsection may not contain any blank lines and must  
22 contain only [~~include~~] the following:

23 (1) a statement of the significant differences between  
24 chattel mortgages and real estate mortgages;

25 (2) an itemization of typical [~~estimated closing~~]  
26 costs associated with a chattel mortgage purchase of a manufactured  
27 home [~~, if any~~];



(3) an example ~~[estimate of the total amount]~~ of monthly payments in three typical chattel mortgage transactions, including an estimate of the amount of the [+

~~[(A)] principal, [and] interest, [payments,~~  
~~[(B) costs of any]~~ required insurance premium, [+] and

~~[(C) costs for payment of]~~ ad valorem taxes~~[-~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home];~~

(4) a statement of the roles of the retailer and any affiliated parties in the financing of the first retail sale, as defined by Section 1201.201, and the estimated compensation that they will receive for providing or arranging the financing; and

(5) any other disclosures required by state or federal law, including the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

(b) A retailer shall provide the consumer protection disclosure statement to the consumer ~~[at least 24 hours]~~ before the completion of the first credit application ~~[installment contract is fully executed, as provided by Section 1201.164]~~.

SECTION 10. Section 1201.164(a), Occupations Code, is amended to read as follows:

(a) In a chattel mortgage transaction involving an installment contract, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed ~~[the~~

1 ~~disclosure statements required by this subchapter and~~ the  
2 contract, with all required information included, signed by the  
3 retailer. The delivery of the ~~[disclosure statements and]~~  
4 installment contract, with all required information included,  
5 signed by the retailer constitutes a firm offer by the retailer.  
6 The consumer may accept the offer not earlier than 24 hours after  
7 the delivery of the contract [documents]. If the consumer has not  
8 accepted the offer within 72 hours after the delivery of the  
9 contract, the retailer may withdraw the offer.

10 SECTION 11. Section 1201.2055, Occupations Code, is amended  
11 by amending Subsection (d) and adding Subsections (e), (f), (g),  
12 and (h) to read as follows:

13 (d) If ~~[the department issues a statement of ownership and~~  
14 ~~location to]~~ an owner elects ~~[who has elected]~~ to treat a  
15 manufactured home as real property, the department shall issue to  
16 the owner a certified copy of the statement of ownership and  
17 location that on its face reflects that the owner has elected to  
18 treat the manufactured home as real property at the location listed  
19 on the statement. Not later than the 60th day after the date the  
20 department issues a certified copy of the statement of ownership  
21 and location to the owner, the owner must:

22 (1) file the certified copy in the real property  
23 records of the county in which the home is located; and

24 (2) notify the department that the certified copy has  
25 been filed.

26 (e) A ~~[the]~~ manufactured home is not considered to be real  
27 property until a certified copy of the statement of ownership and

1 location has been filed and the department has been notified of the  
2 filing as provided by Subsection (d).

3 (f) If the department is notified under Subsection (d), the  
4 department in a timely manner shall note in its records that a real  
5 property election has been perfected. If the department is not  
6 notified as described by Subsection (d), the department shall note  
7 in its records that a real property election has not been perfected  
8 and that the home remains personal property [~~in the real property~~  
9 ~~records of the county in which the home is located~~].

10 (g) After the department notes in its records that a real  
11 property election has been perfected [~~certified copy has been filed~~  
12 ~~in the real property records of the county~~], the home is considered  
13 to be real property for all purposes [~~in the form of an improvement~~  
14 ~~to the underlying real property on which the home is located. If a~~  
15 ~~real property election has been made but a certified copy of the~~  
16 ~~statement of ownership and location has not been filed as required~~  
17 ~~by this subsection, the home continues to be treated as personal~~  
18 ~~property until the certified copy is filed~~].

19 (h) The provisions of this chapter relating to the  
20 construction or installation of a manufactured home or to  
21 warranties for a manufactured home apply to a home regardless of  
22 whether the home is considered to be real or personal property.

23 SECTION 12. Sections 1201.206(d) and (e), Occupations Code,  
24 are amended to read as follows:

25 (d) Not later than the 30th day after the date of each [~~At a~~]  
26 subsequent sale or transfer of a [~~the~~] home that is considered to be  
27 personal property, the seller [~~purchaser~~] or transferor

1 ~~[transferee]~~ shall provide to the department a completed  
2 application ~~[apply]~~ for the issuance of a new statement of  
3 ownership and location. The subsequent sale or transfer of a home  
4 that is considered to be real property is treated as a sale or  
5 transfer of real property and is not subject to regulation by the  
6 department.

7 (e) Ownership of a manufactured home does not pass or vest  
8 at the first retail ~~[a]~~ sale ~~[or transfer]~~ of the home until a  
9 completed application for the issuance of a statement of ownership  
10 and location is filed with the department. Ownership of a  
11 manufactured home that is considered to be personal property does  
12 not pass or vest at a subsequent sale or transfer of the home until a  
13 completed application for the issuance of a statement of ownership  
14 and location is filed with the department.

15 SECTION 13. Section 1201.207(a), Occupations Code, is  
16 amended to read as follows:

17 (a) The department shall process any completed application  
18 for the issuance of a statement of ownership and location not later  
19 than the 15th ~~[10th]~~ working day after the date the application is  
20 received by the department. If the department rejects an  
21 application, the department shall provide a clear and complete  
22 explanation of the reason for the rejection and instructions on how  
23 to cure any defects, if possible.

24 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
25 is amended by adding Section 1201.2076 to read as follows:

26 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
27 PROPERTY. The department may not issue a statement of ownership and

1 location for a manufactured home that is being converted from real  
2 property to personal property until:

3 (1) each lien on the home is released by the  
4 lienholder; or

5 (2) each lienholder gives written consent, to be  
6 placed on file with the department.

7 SECTION 15. Section 1201.209, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
10 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.  
11 The department may not refuse to issue a statement of ownership and  
12 location and may not suspend or revoke a statement of ownership and  
13 location unless:

14 (1) the application for issuance of the statement of  
15 ownership and location contains a false or fraudulent statement,  
16 the applicant failed to provide information required by the  
17 director, or the applicant is not entitled to issuance of the  
18 statement of ownership and location;

19 (2) the director has reason to believe that the  
20 manufactured home is stolen or unlawfully converted, or the  
21 issuance of a statement of ownership and location would defraud the  
22 owner or a lienholder of the manufactured home;

23 (3) the director has reason to believe that the  
24 manufactured home is salvaged, and an application for the issuance  
25 of a new statement of ownership and location that indicates that the  
26 home is salvaged has not been filed;

27 (4) the required fee has not been paid;

1 (5) the state sales and use tax has not been paid in  
2 accordance with Chapter 158, Tax Code, and Section 1201.208; or

3 (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
4 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
5 ~~that section existed on the date the lien was filed,~~] and the lien  
6 has not been extinguished.

7 SECTION 16. Sections 1201.216(a) and (b), Occupations Code,  
8 are amended to read as follows:

9 (a) If the owner of a manufactured home notifies the  
10 department that the owner intends to treat the home as real property  
11 or to reserve its use for a business purpose or salvage, the [The]  
12 department shall indicate on the statement of ownership and  
13 location for the [a-manufactured] home that:

14 (1) the owner of the home has elected to treat the home  
15 as real property or to reserve its use for a business purpose or  
16 salvage; and

17 (2) except as provided by Section 1201.2055(h), the  
18 department no longer considers the home to be a manufactured home  
19 for purposes of regulation under this chapter ~~[whether the home has~~  
20 ~~been sold, exchanged, or lease-purchased to a purchaser for the~~  
21 ~~purchaser's business use. For a home sold, exchanged, or~~  
22 ~~lease-purchased as described by this subsection, the department~~  
23 ~~shall issue a new statement of ownership and location that~~  
24 ~~indicates that the home is reserved for business use].~~

25 (b) On application and subject to Sections 1201.2076 and  
26 1201.209, the department shall ~~[may]~~ issue for the structure  
27 described in the application a new statement of ownership and

1 location restoring the structure's designation as a manufactured  
2 [for the] home only after an inspection and determination that the  
3 structure [home] is habitable as provided by Section 1201.453.  
4 [The statement must indicate that the home is no longer reserved for  
5 business use.]

6 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,  
7 is amended by adding Section 1201.217 to read as follows:

8 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
9 of real property on which a manufactured home owned by another is  
10 located may declare the home abandoned as provided by this section  
11 if the home has been continuously unoccupied for at least six  
12 months.

13 (b) Before declaring a manufactured home abandoned, the  
14 owner of real property on which the home is located must send a  
15 notice of intent to declare the home abandoned to the owner of the  
16 home and all lienholders at the addresses listed on the home's  
17 statement of ownership and location on file with the department.  
18 Mailing of the notice by certified mail, return receipt requested,  
19 postage prepaid, to the persons required to be notified by this  
20 subsection constitutes conclusive proof of compliance with this  
21 subsection.

22 (c) On receipt of a notice of intent to declare a  
23 manufactured home abandoned, the owner of the home or a lienholder  
24 may freely enter the real property on which the home is located to  
25 remove the home.

26 (d) If the manufactured home remains on the real property  
27 for at least 45 days after the date the notice is postmarked:

1           (1) all liens on the home are extinguished; and

2           (2) the real property owner may declare the home  
3 abandoned and may apply to the department for a statement of  
4 ownership and location listing the real property owner as the owner  
5 of the manufactured home.

6           (e) A new statement of ownership and location issued by the  
7 department under this section transfers, free of any liens, title  
8 to the manufactured home to the real property owner.

9           SECTION 18. Section 1201.219(b), Occupations Code, is  
10 amended to read as follows:

11           (b) Except as provided by Subsection (a), a lien on a  
12 manufactured home is perfected only by filing with the department  
13 the notice of lien on a form provided by the department. The  
14 recordation of a lien with the department is notice to all persons  
15 that the lien exists. Except as expressly provided by Chapter 32,  
16 Tax Code, a lien recorded with the department has priority,  
17 according to the chronological order of recordation, over another  
18 lien or claim against the manufactured home.

19           SECTION 19. Section 1201.221(a), Occupations Code, is  
20 amended to read as follows:

21           (a) On written request, the department shall provide  
22 information held by the department on:

23                   (1) the current ownership and location of a  
24 manufactured home; and

25                   (2) the existence of any tax lien on that home for  
26 which notice has been filed with the department.

27           SECTION 20. Sections 1201.352(c) and (d), Occupations Code,



1 are amended to read as follows:

2 (c) Before the signing of a binding retail installment sales  
3 contract or other binding purchase agreement, the retailer must  
4 give the consumer a copy [~~or a general description~~] of:

5 (1) the manufacturer's warranty; [~~and~~

6 [~~(2) the retailer's warranty.~~

7 [~~(d) At the time of the initial installation at the~~  
8 ~~consumer's homesite, the retailer shall deliver to the consumer:~~

9 [~~(1) the manufacturer's warranty,~~

10 (2) the retailer's warranty;

11 (3) the warranties given by the manufacturers of  
12 appliances or equipment included with the home; and

13 (4) the name and address of the manufacturer or  
14 retailer to whom the consumer is to give notice of a warranty  
15 service request.

16 SECTION 21. Section 1201.357, Occupations Code, is amended  
17 by adding Subsection (c) to read as follows:

18 (c) If the manufacturer or retailer is unable to provide  
19 warranty service in accordance with the department order under  
20 Section 1201.356 as a result of an action of the consumer, the  
21 manufacturer or retailer must make that allegation in the written  
22 statement required by Subsection (a). The department shall  
23 investigate the allegation, and if the department determines that  
24 the allegation is credible, the department shall issue a new order  
25 specifying the date and time of the proposed corrective action. The  
26 department shall send the order to the consumer and the  
27 manufacturer or retailer, as applicable, by certified mail, return

1 receipt requested. If the consumer refuses to comply with the  
2 department's new order, the manufacturer or retailer, as  
3 applicable:

4 (1) is discharged from the obligations imposed by the  
5 relevant department orders;

6 (2) has no liability to the consumer; and

7 (3) is not subject to an action by the department for  
8 failure to provide warranty service.

9 SECTION 22. Section 1201.361, Occupations Code, is amended  
10 to read as follows:

11 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
12 installations not covered by the retailer's warranty described by  
13 Section 1201.352 and for the installation of all used manufactured  
14 homes, the installer shall give the manufactured home owner a  
15 written warranty that the installation of the home was performed in  
16 accordance with all department standards, rules, orders, and  
17 requirements.

18 (b) The warranty must conspicuously disclose the  
19 requirement that the consumer notify the installer of any claim in  
20 writing in accordance with the terms of the warranty. Unless the  
21 warranty provides for a longer period, the installer has no  
22 obligation or liability for any defect described in a written  
23 notice received from the consumer more than two years after the date  
24 of the installation.

25 SECTION 23. Section 1201.405, Occupations Code, is amended  
26 by adding Subsection (e) to read as follows:

27 (e) In determining the amount of actual damages under this

1 section, the director shall make an independent inquiry as to the  
2 damages actually incurred, unless the damages have been established  
3 by a contested jury trial.

4 SECTION 24. Section 1201.451(a), Occupations Code, is  
5 amended to read as follows:

6 (a) Except as otherwise provided by this subchapter, a  
7 person may not sell, exchange, or lease-purchase a used  
8 manufactured home without the appropriate transfer of good and  
9 marketable title to the home [~~unless the sale, exchange, or~~  
10 ~~lease-purchase is to:~~

11 [~~(1) a purchaser for the purchaser's business use, or~~

12 [~~(2) a rebuilder for the purpose of rebuilding a~~  
13 ~~salvaged manufactured home]~~.

14 SECTION 25. Section 1201.455, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
17 Except as otherwise provided by this subchapter, a person may not  
18 sell, exchange, or lease-purchase a used manufactured home to a  
19 consumer for use as a dwelling without providing a written warranty  
20 that the home is and will remain habitable until the 60th day after  
21 the later of the installation date or the date of the purchase  
22 agreement. ((INSERT C))

23 (b) ~~Unless, not later than the 65th [60th] day after the~~  
24 ~~date of the sale, exchange, or lease-purchase agreement, the~~  
25 consumer notifies the seller in writing of a defect that makes the  
26 home not habitable, any obligation or liability of the seller under  
27 this subchapter is terminated. The warranty must conspicuously

1 disclose that notice requirement to the consumer. *((INSERT B))*

2 SECTION 26. The heading to Section 1201.457, Occupations  
3 Code, is amended to read as follows:

4 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
5 OR SALVAGE.

6 SECTION 27. Section 1201.457(b), Occupations Code, is  
7 amended to read as follows:

8 (b) The purchaser of a used manufactured home for business  
9 use or the purchaser of a salvaged manufactured home may not sell,  
10 exchange, or lease-purchase the home for use as a dwelling or allow  
11 any person to occupy or use the home as a dwelling unless the  
12 director issues a new statement of ownership and location  
13 indicating that the home is no longer reserved for business use or  
14 salvage. On the purchaser's application to the department for  
15 issuance of a new statement of ownership and location, the  
16 department shall inspect the home and, if the department determines  
17 that the home is habitable, issue the statement of ownership and  
18 location. *((INSERT A))*

19 SECTION 28. Section 32.015(a), Tax Code, is amended to read  
20 as follows: *9*

21 (a) On payment of the taxes, penalties, and interest for a  
22 year for which a valid tax lien [~~filed before September 1, 2001,~~]  
23 has been recorded on the title records of the department, the  
24 collector for the taxing unit shall issue a tax certificate showing  
25 no taxes due or a tax paid receipt for such year to the person making  
26 payment. When the tax certificate showing no taxes due or tax paid  
27 receipt is filed with the department, the tax lien is extinguished

1 and canceled and shall be removed from the title records of the  
2 manufactured home. The collector for a taxing unit may not refuse  
3 to issue a tax paid receipt to the person who offers to pay the  
4 taxes, penalties, and interest for a particular year or years, even  
5 though taxes may also be due for another year or other years.

6 SECTION <sup>30</sup>29. Section 32.03, Tax Code, is amended by amending  
7 Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to  
8 read as follows:

9 (a) Except as provided by Subsection (a-1), a [A] tax lien  
10 may not be enforced against personal property transferred to a  
11 buyer in ordinary course of business as defined by Section 1.201(9)  
12 of the Business & Commerce Code for value who does not have actual  
13 notice of the existence of the lien ~~[or, if the personal property is~~  
14 ~~a manufactured home, who does not have constructive notice of the~~  
15 ~~existence of the lien]~~.

16 (a-1) A tax lien against a manufactured home may not be  
17 enforced unless it has been recorded with the Texas Department of  
18 Housing and Community Affairs as provided by Section 1201.219,  
19 Occupations Code:

20 (1) before October 1, 2005; or

21 (2) not later than six months after the end of the year  
22 for which the tax was owed.

23 (a-2) A person may not transfer title of a manufactured home  
24 until all tax liens perfected on the home have been extinguished or  
25 satisfied and released. This subsection does not apply to the sale  
26 of a manufactured home in inventory.

27 (b) A bona fide purchaser for value or the holder of a lien

1 recorded on the manufactured home statement of ownership and  
2 location [~~document of title~~] is not required to pay any taxes that  
3 have not been recorded with the Texas Department of Housing and  
4 Community Affairs [~~imposed in a tax year that begins before January~~  
5 ~~1, 2001, or penalties or interest on those taxes except for each~~  
6 ~~year for which a valid tax lien was duly filed and recorded under~~  
7 ~~Section 32.015, as that section existed on the date the lien was~~  
8 ~~filed, and each year for which the owner of the manufactured home~~  
9 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
10 ~~that section existed before September 1, 2001. The effect and~~  
11 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
12 ~~imposed on a manufactured home in a tax year that begins on or after~~  
13 ~~January 1, 2001, are those established by Sections 32.01 and~~  
14 ~~32.05]~~. In this section, "manufactured home" has the meaning  
15 assigned by Section 32.015(b).

16 SECTION 30<sup>1/2</sup>. The following laws are repealed:

17 (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
18 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
19 Occupations Code;

20 (2) Sections 32.014(d) and 32.03(c)-(j), Tax Code; and

21 (3) Section 623.093(d), Transportation Code.

22 SECTION 31<sup>2/3</sup>. This Act takes effect immediately if it  
23 receives a vote of two-thirds of all the members elected to each  
24 house, as provided by Section 39, Article III, Texas Constitution.  
25 If this Act does not receive the vote necessary for immediate  
26 effect, this Act takes effect September 1, 2005.

LIST OF HOUSE AMENDMENTS CONSIDERED TODAY

HB2438-Second Reading

<u>AMENDMENT#</u>	<u>AUTHOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
1	Quintanilla	Amendment	Adopted
2	Rodriguez	Amendment	Adopted
3	Thompson	Amendment	Adopted



ADOPTED

FLOOR AMENDMENT NO. 1

APR 21 2005

BY: *[Signature]*

*[Signature]*  
Chief Clerk  
House of Representatives

1 Amend C.S.H.B. No. 2438 (house committee report) by adding  
2 the following appropriately numbered section and by renumbering  
3 subsequent sections accordingly: *((INSERT A))*

4 *SECTION 28* Subchapter Z, Chapter 2306, Government Code,  
5 is amended by adding Section 2306.591 to read as follows:

6 Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

7 (a) For a manufactured home to be approved for installation and  
8 use as a dwelling in a colonia:

9 *PPP* (1) the home must be a HUD-code manufactured home, as  
10 defined by Section 1201.003, Occupations Code;

11 (2) the home must be habitable, as described by  
12 Section 1201.453, Occupations Code; and

13 (3) ownership of the home must be properly recorded  
14 with the manufactured housing division of the department.

15 (b) An owner of a manufactured home is not eligible to  
16 participate in a grant loan program offered by the department,  
17 including the single-family mortgage revenue bond program under  
18 Section 2306.142, unless the owner complies with Subsection (a).

*[Signature]*





# ADOPTED

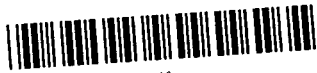
APR 27 2005

FLOOR AMENDMENT NO. 7BY: Fodriguez
 Chief Clerk  
 House of Representatives

1 Amend C.S.H.B. No. 2438 on page 16, between lines 1 and 2,  
 2 by inserting the following: ((INSERT B))

3 P (c) If negotiations related to the sale, exchange, or  
 4 lease-purchase agreement are conducted primarily in a language  
 5 other than English, the written warranty and disclosure must be  
 6 provided to the consumer in the language in which the  
 7 negotiations are conducted.

2438b



FLOOR AMENDMENT NO. 3

BY: Thompson

1 Amend C.S.H.B. No. 2438, on page 15, by striking lines 23-  
2 24 and substituting the following: ((INSERT C))

3 RP (b) Unless, not later than the 65th ~~[60th]~~ day after the  
4 later of the installation date or the date of the purchase  
5 [sale, exchange, or lease-purchase] agreement, the

2438C

46 **ADOPTED**  
APR 27 2005  
Ramsey  
Chief Clerk  
House of Representatives

2ND READING  
ENGROSSMENT

By: Haggerty, Quintanilla

H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary [~~+~~] and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the

issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of

1 certification and continuing education programs not later than the  
 2 90th day after the date the salesperson's initial license is  
 3 issued. To renew a salesperson's license, a salesperson ~~[Persons]~~  
 4 ~~regulated under this chapter [and directly involved in the sale of~~  
 5 ~~manufactured housing]~~ must complete an additional eight hours of  
 6 certification and continuing education programs for each renewal  
 7 [each year]. The programs must be presented by a board-approved  
 8 organization or educational institution and must include  
 9 instruction in applicable ~~[address]~~ state and federal law,  
 10 ~~[applicable to all manufactured housing retailer practices and~~  
 11 ~~relevant]~~ consumer protection regulations, and ethical standards.

12 (g) The board shall suspend the license of a salesperson  
 13 ~~[person]~~ regulated under this chapter who does not complete the  
 14 programs as required by this section. The board shall reinstate the  
 15 license on the salesperson's ~~[person's]~~ completion of the programs.

16 SECTION 6. Section 1201.114(a), Occupations Code, is  
 17 amended to read as follows:

18 (a) A manufacturer's, retailer's, broker's, or installer's  
 19 license is valid for one year. A salesperson's license is valid for  
 20 two years. A license ~~[and]~~ may be renewed as provided by the  
 21 director. A person whose license has been suspended or revoked or  
 22 whose license has expired may not engage in activities that require  
 23 a license until the license has been reinstated or renewed.

24 SECTION 7. Section 1201.151(d), Occupations Code, is  
 25 amended to read as follows:

26 (d) This section does not apply to:

27 (1) a deposit held in escrow in a real estate

1 transaction; or

2 (2) money stated to be a down payment in an executed  
3 retail [~~installment~~] sales contract.

4 SECTION 8. Section 1201.159(a), Occupations Code, is  
5 amended to read as follows:

6 (a) A broker shall ensure that the seller gives the buyer  
7 the applicable disclosures and warranties that the buyer would have  
8 received if the buyer had purchased the manufactured home through a  
9 licensed retailer [~~may but is not required to be the agent of a~~  
10 ~~party involved in the sale, exchange, or lease-purchase of a~~  
11 ~~manufactured home for which a statement of ownership and location~~  
12 ~~has been issued and is outstanding~~].

13 SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
14 are amended to read as follows:

15 (a) In addition to the disclosure statement required by  
16 Section 1201.162, the department shall adopt rules creating a  
17 one-page form printed in at least 12-point type that addresses  
18 [~~addressing~~] consumer protection disclosures required in chattel  
19 mortgage transactions and shall prescribe the form for the  
20 disclosure statement. A consumer protection disclosure statement  
21 under this subsection may not contain any blank lines and must  
22 contain only [~~include~~] the following:

23 (1) a statement of the significant differences between  
24 chattel mortgages and real estate mortgages;

25 (2) an itemization of typical [~~estimated closing~~]  
26 costs associated with a chattel mortgage purchase of a manufactured  
27 home [~~, if any~~];

(3) an example ~~[estimate of the total amount]~~ of monthly payments in three typical chattel mortgage transactions, including an estimate of the amount of the [+

~~[(A)] principal, [and] interest, [payments,~~  
~~[(B) costs of any]~~ required insurance premium, [+] and

~~[(C) costs for payment of]~~ ad valorem taxes~~[-~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home];~~

(4) a statement of the roles of the retailer and any affiliated parties in the financing of the first retail sale, as defined by Section 1201.201, and the estimated compensation that they will receive for providing or arranging the financing; and

(5) any other disclosures required by state or federal law, including the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

(b) A retailer shall provide the consumer protection disclosure statement to the consumer ~~[at least 24 hours]~~ before the completion of the first credit application ~~[installment contract is fully executed, as provided by Section 1201.164]~~.

SECTION 10. Section 1201.164(a), Occupations Code, is amended to read as follows:

(a) In a chattel mortgage transaction involving an installment contract, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed ~~[the~~

1 ~~disclosure statements required by this subchapter and]~~ the  
 2 contract, with all required information included, signed by the  
 3 retailer. The delivery of the ~~[disclosure statements and]~~  
 4 installment contract, with all required information included,  
 5 signed by the retailer constitutes a firm offer by the retailer.  
 6 The consumer may accept the offer not earlier than 24 hours after  
 7 the delivery of the contract [documents]. If the consumer has not  
 8 accepted the offer within 72 hours after the delivery of the  
 9 contract, the retailer may withdraw the offer.

10 SECTION 11. Section 1201.2055, Occupations Code, is amended  
 11 by amending Subsection (d) and adding Subsections (e), (f), (g),  
 12 and (h) to read as follows:

13 (d) If ~~[the department issues a statement of ownership and~~  
 14 ~~location to]~~ an owner elects ~~[who has elected]~~ to treat a  
 15 manufactured home as real property, the department shall issue to  
 16 the owner a certified copy of the statement of ownership and  
 17 location that on its face reflects that the owner has elected to  
 18 treat the manufactured home as real property at the location listed  
 19 on the statement. Not later than the 60th day after the date the  
 20 department issues a certified copy of the statement of ownership  
 21 and location to the owner, the owner must:

22 (1) file the certified copy in the real property  
 23 records of the county in which the home is located; and

24 (2) notify the department that the certified copy has  
 25 been filed.

26 (e) A ~~[the]~~ manufactured home is not considered to be real  
 27 property until a certified copy of the statement of ownership and



1 location has been filed and the department has been notified of the  
2 filing as provided by Subsection (d).

3 (f) If the department is notified under Subsection (d), the  
4 department in a timely manner shall note in its records that a real  
5 property election has been perfected. If the department is not  
6 notified as described by Subsection (d), the department shall note  
7 in its records that a real property election has not been perfected  
8 and that the home remains personal property [~~in the real property~~  
9 ~~records of the county in which the home is located~~].

10 (g) After the department notes in its records that a real  
11 property election has been perfected [~~certified copy has been filed~~  
12 ~~in the real property records of the county~~], the home is considered  
13 to be real property for all purposes [~~in the form of an improvement~~  
14 ~~to the underlying real property on which the home is located. If a~~  
15 ~~real property election has been made but a certified copy of the~~  
16 ~~statement of ownership and location has not been filed as required~~  
17 ~~by this subsection, the home continues to be treated as personal~~  
18 ~~property until the certified copy is filed~~].

19 (h) The provisions of this chapter relating to the  
20 construction or installation of a manufactured home or to  
21 warranties for a manufactured home apply to a home regardless of  
22 whether the home is considered to be real or personal property.

23 SECTION 12. Sections 1201.206(d) and (e), Occupations Code,  
24 are amended to read as follows:

25 (d) Not later than the 30th day after the date of each [~~At a~~  
26 subsequent sale or transfer of a [~~the~~] home that is considered to be  
27 personal property, the seller [~~purchaser~~] or transferor

1 ~~[transferee]~~ shall provide to the department a completed  
2 application ~~[apply]~~ for the issuance of a new statement of  
3 ownership and location. The subsequent sale or transfer of a home  
4 that is considered to be real property is treated as a sale or  
5 transfer of real property and is not subject to regulation by the  
6 department.

7 (e) Ownership of a manufactured home does not pass or vest  
8 at the first retail ~~[a]~~ sale ~~[or transfer]~~ of the home until a  
9 completed application for the issuance of a statement of ownership  
10 and location is filed with the department. Ownership of a  
11 manufactured home that is considered to be personal property does  
12 not pass or vest at a subsequent sale or transfer of the home until a  
13 completed application for the issuance of a statement of ownership  
14 and location is filed with the department.

15 SECTION 13. Section 1201.207(a), Occupations Code, is  
16 amended to read as follows:

17 (a) The department shall process any completed application  
18 for the issuance of a statement of ownership and location not later  
19 than the 15th ~~[10th]~~ working day after the date the application is  
20 received by the department. If the department rejects an  
21 application, the department shall provide a clear and complete  
22 explanation of the reason for the rejection and instructions on how  
23 to cure any defects, if possible.

24 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
25 is amended by adding Section 1201.2076 to read as follows:

26 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
27 PROPERTY. The department may not issue a statement of ownership and

1 location for a manufactured home that is being converted from real  
2 property to personal property until:

3 (1) each lien on the home is released by the  
4 lienholder; or

5 (2) each lienholder gives written consent, to be  
6 placed on file with the department.

7 SECTION 15. Section 1201.209, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
10 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.  
11 The department may not refuse to issue a statement of ownership and  
12 location and may not suspend or revoke a statement of ownership and  
13 location unless:

14 (1) the application for issuance of the statement of  
15 ownership and location contains a false or fraudulent statement,  
16 the applicant failed to provide information required by the  
17 director, or the applicant is not entitled to issuance of the  
18 statement of ownership and location;

19 (2) the director has reason to believe that the  
20 manufactured home is stolen or unlawfully converted, or the  
21 issuance of a statement of ownership and location would defraud the  
22 owner or a lienholder of the manufactured home;

23 (3) the director has reason to believe that the  
24 manufactured home is salvaged, and an application for the issuance  
25 of a new statement of ownership and location that indicates that the  
26 home is salvaged has not been filed;

27 (4) the required fee has not been paid;

1           (5) the state sales and use tax has not been paid in  
2 accordance with Chapter 158, Tax Code, and Section 1201.208; or

3           (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
4 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
5 ~~that section existed on the date the lien was filed,~~] and the lien  
6 has not been extinguished.

7           SECTION 16. Sections 1201.216(a) and (b), Occupations Code,  
8 are amended to read as follows:

9           (a) If the owner of a manufactured home notifies the  
10 department that the owner intends to treat the home as real property  
11 or to reserve its use for a business purpose or salvage, the [The]  
12 department shall indicate on the statement of ownership and  
13 location for the [a-manufactured] home that:

14               (1) the owner of the home has elected to treat the home  
15 as real property or to reserve its use for a business purpose or  
16 salvage; and

17               (2) except as provided by Section 1201.2055(h), the  
18 department no longer considers the home to be a manufactured home  
19 for purposes of regulation under this chapter ~~[whether the home has~~  
20 ~~been sold, exchanged, or lease-purchased to a purchaser for the~~  
21 ~~purchaser's business use. For a home sold, exchanged, or~~  
22 ~~lease-purchased as described by this subsection, the department~~  
23 ~~shall issue a new statement of ownership and location that~~  
24 ~~indicates that the home is reserved for business use].~~

25           (b) On application and subject to Sections 1201.2076 and  
26 1201.209, the department shall ~~[may]~~ issue for the structure  
27 described in the application a new statement of ownership and

1 location restoring the structure's designation as a manufactured  
2 [for the] home only after an inspection and determination that the  
3 structure [home] is habitable as provided by Section 1201.453.  
4 [The statement must indicate that the home is no longer reserved for  
5 business use.]

6 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,  
7 is amended by adding Section 1201.217 to read as follows:

8 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
9 of real property on which a manufactured home owned by another is  
10 located may declare the home abandoned as provided by this section  
11 if the home has been continuously unoccupied for at least six  
12 months.

13 (b) Before declaring a manufactured home abandoned, the  
14 owner of real property on which the home is located must send a  
15 notice of intent to declare the home abandoned to the owner of the  
16 home and all lienholders at the addresses listed on the home's  
17 statement of ownership and location on file with the department.  
18 Mailing of the notice by certified mail, return receipt requested,  
19 postage prepaid, to the persons required to be notified by this  
20 subsection constitutes conclusive proof of compliance with this  
21 subsection.

22 (c) On receipt of a notice of intent to declare a  
23 manufactured home abandoned, the owner of the home or a lienholder  
24 may freely enter the real property on which the home is located to  
25 remove the home.

26 (d) If the manufactured home remains on the real property  
27 for at least 45 days after the date the notice is postmarked:

1           (1) all liens on the home are extinguished; and

2           (2) the real property owner may declare the home  
3 abandoned and may apply to the department for a statement of  
4 ownership and location listing the real property owner as the owner  
5 of the manufactured home.

6           (e) A new statement of ownership and location issued by the  
7 department under this section transfers, free of any liens, title  
8 to the manufactured home to the real property owner.

9           SECTION 18. Section 1201.219(b), Occupations Code, is  
10 amended to read as follows:

11           (b) Except as provided by Subsection (a), a lien on a  
12 manufactured home is perfected only by filing with the department  
13 the notice of lien on a form provided by the department. The  
14 recordation of a lien with the department is notice to all persons  
15 that the lien exists. Except as expressly provided by Chapter 32,  
16 Tax Code, a lien recorded with the department has priority,  
17 according to the chronological order of recordation, over another  
18 lien or claim against the manufactured home.

19           SECTION 19. Section 1201.221(a), Occupations Code, is  
20 amended to read as follows:

21           (a) On written request, the department shall provide  
22 information held by the department on:

23                   (1) the current ownership and location of a  
24 manufactured home; and

25                   (2) the existence of any tax lien on that home for  
26 which notice has been filed with the department.

27           SECTION 20. Sections 1201.352(c) and (d), Occupations Code,

are amended to read as follows:

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement, the retailer must give the consumer a copy ~~[or a general description]~~ of:

(1) the manufacturer's warranty; ~~and~~

~~[(2) the retailer's warranty.]~~

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:~~

~~[(1) the manufacturer's warranty;]~~

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return

1 receipt requested. If the consumer refuses to comply with the  
2 department's new order, the manufacturer or retailer, as  
3 applicable:

4 (1) is discharged from the obligations imposed by the  
5 relevant department orders;

6 (2) has no liability to the consumer; and

7 (3) is not subject to an action by the department for  
8 failure to provide warranty service.

9 SECTION 22. Section 1201.361, Occupations Code, is amended  
10 to read as follows:

11 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
12 installations not covered by the retailer's warranty described by  
13 Section 1201.352 and for the installation of all used manufactured  
14 homes, the installer shall give the manufactured home owner a  
15 written warranty that the installation of the home was performed in  
16 accordance with all department standards, rules, orders, and  
17 requirements.

18 (b) The warranty must conspicuously disclose the  
19 requirement that the consumer notify the installer of any claim in  
20 writing in accordance with the terms of the warranty. Unless the  
21 warranty provides for a longer period, the installer has no  
22 obligation or liability for any defect described in a written  
23 notice received from the consumer more than two years after the date  
24 of the installation.

25 SECTION 23. Section 1201.405, Occupations Code, is amended  
26 by adding Subsection (e) to read as follows:

27 (e) In determining the amount of actual damages under this



1 section, the director shall make an independent inquiry as to the  
2 damages actually incurred, unless the damages have been established  
3 by a contested jury trial.

4 SECTION 24. Section 1201.451(a), Occupations Code, is  
5 amended to read as follows:

6 (a) Except as otherwise provided by this subchapter, a  
7 person may not sell, exchange, or lease-purchase a used  
8 manufactured home without the appropriate transfer of good and  
9 marketable title to the home [~~unless the sale, exchange, or~~  
10 ~~lease-purchase is to:~~

11 [~~(1) a purchaser for the purchaser's business use, or~~

12 [~~(2) a rebuilder for the purpose of rebuilding a~~  
13 ~~salvaged manufactured home]~~.

14 SECTION 25. Section 1201.455, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
17 Except as otherwise provided by this subchapter, a person may not  
18 sell, exchange, or lease-purchase a used manufactured home to a  
19 consumer for use as a dwelling without providing a written warranty  
20 that the home is and will remain habitable until the 60th day after  
21 the later of the installation date or the date of the purchase  
22 agreement.

23 (b) Unless, not later than the 65th [~~60th~~] day after the  
24 later of the installation date or the date of the purchase [~~sale,~~  
25 ~~exchange, or lease-purchase~~] agreement, the consumer notifies the  
26 seller in writing of a defect that makes the home not habitable, any  
27 obligation or liability of the seller under this subchapter is

1 terminated. The warranty must conspicuously disclose that notice  
2 requirement to the consumer.

3 (c) If negotiations related to the sale, exchange, or  
4 lease-purchase agreement are conducted primarily in a language  
5 other than English, the written warranty and disclosure must be  
6 provided to the consumer in the language in which the negotiations  
7 are conducted.

8 SECTION 26. The heading to Section 1201.457, Occupations  
9 Code, is amended to read as follows:

10 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
11 OR SALVAGE.

12 SECTION 27. Section 1201.457(b), Occupations Code, is  
13 amended to read as follows:

14 (b) The purchaser of a used manufactured home for business  
15 use or the purchaser of a salvaged manufactured home may not sell,  
16 exchange, or lease-purchase the home for use as a dwelling or allow  
17 any person to occupy or use the home as a dwelling unless the  
18 director issues a new statement of ownership and location  
19 indicating that the home is no longer reserved for business use or  
20 salvage. On the purchaser's application to the department for  
21 issuance of a new statement of ownership and location, the  
22 department shall inspect the home and, if the department determines  
23 that the home is habitable, issue the statement of ownership and  
24 location.

25 SECTION 28. Subchapter Z, Chapter 2306, Government Code, is  
26 amended by adding Section 2306.591 to read as follows:

27 Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

1 (a) For a manufactured home to be approved for installation and use  
2 as a dwelling in a colonia:

3 (1) the home must be a HUD-code manufactured home, as  
4 defined by Section 1201.003, Occupations Code;

5 (2) the home must be habitable, as described by  
6 Section 1201.453, Occupations Code; and

7 (3) ownership of the home must be properly recorded  
8 with the manufactured housing division of the department.

9 (b) An owner of a manufactured home is not eligible to  
10 participate in a grant loan program offered by the department,  
11 including the single-family mortgage revenue bond program under  
12 Section 2306.142, unless the owner complies with Subsection (a).

13 SECTION 29. Section 32.015(a), Tax Code, is amended to read  
14 as follows:

15 (a) On payment of the taxes, penalties, and interest for a  
16 year for which a valid tax lien [~~filed before September 1, 2001,~~]  
17 has been recorded on the title records of the department, the  
18 collector for the taxing unit shall issue a tax certificate showing  
19 no taxes due or a tax paid receipt for such year to the person making  
20 payment. When the tax certificate showing no taxes due or tax paid  
21 receipt is filed with the department, the tax lien is extinguished  
22 and canceled and shall be removed from the title records of the  
23 manufactured home. The collector for a taxing unit may not refuse  
24 to issue a tax paid receipt to the person who offers to pay the  
25 taxes, penalties, and interest for a particular year or years, even  
26 though taxes may also be due for another year or other years.

27 SECTION 30. Section 32.03, Tax Code, is amended by amending

Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien ~~[or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien]~~.

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

(1) before October 1, 2005; or

(2) not later than six months after the end of the year for which the tax was owed.

(a-2) A person may not transfer title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released. This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on the manufactured home statement of ownership and location ~~[document of title]~~ is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs ~~[imposed in a tax year that begins before January 1, 2001, or penalties or interest on those taxes except for each year for which a valid tax lien was duly filed and recorded under~~

1 ~~Section 32.015, as that section existed on the date the lien was~~  
2 ~~filed, and each year for which the owner of the manufactured home~~  
3 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
4 ~~that section existed before September 1, 2001. The effect and~~  
5 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
6 ~~imposed on a manufactured home in a tax year that begins on or after~~  
7 ~~January 1, 2001, are those established by Sections 32.01 and~~  
8 ~~32.05]. In this section, "manufactured home" has the meaning~~  
9 assigned by Section 32.015(b).

10 SECTION 31. The following laws are repealed:

11 (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
12 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
13 Occupations Code;

14 (2) Sections 32.014(d) and 32.03(c)-(j), Tax Code; and

15 (3) Section 623.093(d), Transportation Code.

16 SECTION 32. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2005.

F

# HOUSE ENGROSSMENT

By: Haggerty, Quintanilla

H.B. No. 2438

## A BILL TO BE ENTITLED

### AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary [~~+~~] and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the

issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of

1 certification and continuing education programs not later than the  
 2 90th day after the date the salesperson's initial license is  
 3 issued. To renew a salesperson's license, a salesperson ~~[Persons]~~  
 4 ~~regulated under this chapter [and directly involved in the sale of~~  
 5 ~~manufactured housing]~~ must complete an additional eight hours of  
 6 certification and continuing education programs for each renewal  
 7 ~~[each year].~~ The programs must be presented by a board-approved  
 8 organization or educational institution and must include  
 9 instruction in applicable ~~[address]~~ state and federal law,  
 10 ~~[applicable to all manufactured housing retailer practices and~~  
 11 ~~relevant]~~ consumer protection regulations, and ethical standards.

12 (g) The board shall suspend the license of a salesperson  
 13 ~~[person]~~ regulated under this chapter who does not complete the  
 14 programs as required by this section. The board shall reinstate the  
 15 license on the salesperson's ~~[person's]~~ completion of the programs.

16 SECTION 6. Section 1201.114(a), Occupations Code, is  
 17 amended to read as follows:

18 (a) A manufacturer's, retailer's, broker's, or installer's  
 19 license is valid for one year. A salesperson's license is valid for  
 20 two years. A license ~~[and]~~ may be renewed as provided by the  
 21 director. A person whose license has been suspended or revoked or  
 22 whose license has expired may not engage in activities that require  
 23 a license until the license has been reinstated or renewed.

24 SECTION 7. Section 1201.151(d), Occupations Code, is  
 25 amended to read as follows:

26 (d) This section does not apply to:

27 (1) a deposit held in escrow in a real estate



1 transaction; or

2 (2) money stated to be a down payment in an executed  
3 retail [~~installment~~] sales contract.

4 SECTION 8. Section 1201.159(a), Occupations Code, is  
5 amended to read as follows:

6 (a) A broker shall ensure that the seller gives the buyer  
7 the applicable disclosures and warranties that the buyer would have  
8 received if the buyer had purchased the manufactured home through a  
9 licensed retailer [~~may but is not required to be the agent of a~~  
10 ~~party involved in the sale, exchange, or lease purchase of a~~  
11 ~~manufactured home for which a statement of ownership and location~~  
12 ~~has been issued and is outstanding~~].

13 SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
14 are amended to read as follows:

15 (a) In addition to the disclosure statement required by  
16 Section 1201.162, the department shall adopt rules creating a  
17 one-page form printed in at least 12-point type that addresses  
18 [~~addressing~~] consumer protection disclosures required in chattel  
19 mortgage transactions and shall prescribe the form for the  
20 disclosure statement. A consumer protection disclosure statement  
21 under this subsection may not contain any blank lines and must  
22 contain only [~~include~~] the following:

23 (1) a statement of the significant differences between  
24 chattel mortgages and real estate mortgages;

25 (2) an itemization of typical [~~estimated closing~~]  
26 costs associated with a chattel mortgage purchase of a manufactured  
27 home [~~, if any~~];

(3) an example ~~[estimate of the total amount]~~ of monthly payments in three typical chattel mortgage transactions, including an estimate of the amount of the [+

~~[(A)] principal, [and] interest, [payments,~~  
~~[(B) costs of any]~~ required insurance premium, [+] and

~~[(C) costs for payment of]~~ ad valorem taxes~~[-~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home];~~

(4) a statement of the roles of the retailer and any affiliated parties in the financing of the first retail sale, as defined by Section 1201.201, and the estimated compensation that they will receive for providing or arranging the financing; and

(5) any other disclosures required by state or federal law, including the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

(b) A retailer shall provide the consumer protection disclosure statement to the consumer ~~[at least 24 hours]~~ before the completion of the first credit application ~~[installment contract is fully executed, as provided by Section 1201.164].~~

SECTION 10. Section 1201.164(a), Occupations Code, is amended to read as follows:

(a) In a chattel mortgage transaction involving an installment contract, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed ~~[the~~

~~disclosure statements required by this subchapter and]~~ the contract, with all required information included, signed by the retailer. The delivery of the ~~[disclosure statements and]~~ installment contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. The consumer may accept the offer not earlier than 24 hours after the delivery of the contract [documents]. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

SECTION 11. Section 1201.2055, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) If ~~[the department issues a statement of ownership and location to]~~ an owner elects [who has elected] to treat a manufactured home as real property, the department shall issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, the owner must:

(1) file the certified copy in the real property records of the county in which the home is located; and

(2) notify the department that the certified copy has been filed.

(e) A ~~[the]~~ manufactured home is not considered to be real property until a certified copy of the statement of ownership and

1 location has been filed and the department has been notified of the  
2 filing as provided by Subsection (d).

3 (f) If the department is notified under Subsection (d), the  
4 department in a timely manner shall note in its records that a real  
5 property election has been perfected. If the department is not  
6 notified as described by Subsection (d), the department shall note  
7 in its records that a real property election has not been perfected  
8 and that the home remains personal property [in the real property  
9 records of the county in which the home is located].

10 (g) After the department notes in its records that a real  
11 property election has been perfected [certified copy has been filed  
12 in the real property records of the county], the home is considered  
13 to be real property for all purposes [in the form of an improvement  
14 to the underlying real property on which the home is located. If a  
15 real property election has been made but a certified copy of the  
16 statement of ownership and location has not been filed as required  
17 by this subsection, the home continues to be treated as personal  
18 property until the certified copy is filed].

19 (h) The provisions of this chapter relating to the  
20 construction or installation of a manufactured home or to  
21 warranties for a manufactured home apply to a home regardless of  
22 whether the home is considered to be real or personal property.

23 SECTION 12. Sections 1201.206(d) and (e), Occupations Code,  
24 are amended to read as follows:

25 (d) Not later than the 30th day after the date of each [At a]  
26 subsequent sale or transfer of a [the] home that is considered to be  
27 personal property, the seller [purchaser] or transferor

1 ~~[transferee]~~ shall provide to the department a completed  
 2 application ~~[apply]~~ for the issuance of a new statement of  
 3 ownership and location. The subsequent sale or transfer of a home  
 4 that is considered to be real property is treated as a sale or  
 5 transfer of real property and is not subject to regulation by the  
 6 department.

7 (e) Ownership of a manufactured home does not pass or vest  
 8 at the first retail ~~[a]~~ sale ~~[or transfer]~~ of the home until a  
 9 completed application for the issuance of a statement of ownership  
 10 and location is filed with the department. Ownership of a  
 11 manufactured home that is considered to be personal property does  
 12 not pass or vest at a subsequent sale or transfer of the home until a  
 13 completed application for the issuance of a statement of ownership  
 14 and location is filed with the department.

15 SECTION 13. Section 1201.207(a), Occupations Code, is  
 16 amended to read as follows:

17 (a) The department shall process any completed application  
 18 for the issuance of a statement of ownership and location not later  
 19 than the 15th ~~[10th]~~ working day after the date the application is  
 20 received by the department. If the department rejects an  
 21 application, the department shall provide a clear and complete  
 22 explanation of the reason for the rejection and instructions on how  
 23 to cure any defects, if possible.

24 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
 25 is amended by adding Section 1201.2076 to read as follows:

26 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
 27 PROPERTY. The department may not issue a statement of ownership and

location for a manufactured home that is being converted from real property to personal property until:

(1) each lien on the home is released by the lienholder; or

(2) each lienholder gives written consent, to be placed on file with the department.

SECTION 15. Section 1201.209, Occupations Code, is amended to read as follows:

Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION. The department may not refuse to issue a statement of ownership and location and may not suspend or revoke a statement of ownership and location unless:

(1) the application for issuance of the statement of ownership and location contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership and location;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership and location would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership and location that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

1           (5) the state sales and use tax has not been paid in  
2 accordance with Chapter 158, Tax Code, and Section 1201.208; or

3           (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
4 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
5 ~~that section existed on the date the lien was filed,~~] and the lien  
6 has not been extinguished.

7           SECTION 16. Sections 1201.216(a) and (b), Occupations Code,  
8 are amended to read as follows:

9           (a) If the owner of a manufactured home notifies the  
10 department that the owner intends to treat the home as real property  
11 or to reserve its use for a business purpose or salvage, the [The]  
12 department shall indicate on the statement of ownership and  
13 location for the [a-manufactured] home that:

14                 (1) the owner of the home has elected to treat the home  
15 as real property or to reserve its use for a business purpose or  
16 salvage; and

17                 (2) except as provided by Section 1201.2055(h), the  
18 department no longer considers the home to be a manufactured home  
19 for purposes of regulation under this chapter ~~[whether the home has~~  
20 ~~been sold, exchanged, or lease-purchased to a purchaser for the~~  
21 ~~purchaser's business use. For a home sold, exchanged, or~~  
22 ~~lease-purchased as described by this subsection, the department~~  
23 ~~shall issue a new statement of ownership and location that~~  
24 ~~indicates that the home is reserved for business use].~~

25           (b) On application and subject to Sections 1201.2076 and  
26 1201.209, the department shall ~~[may]~~ issue for the structure  
27 described in the application a new statement of ownership and

1 location restoring the structure's designation as a manufactured  
2 [for the] home only after an inspection and determination that the  
3 structure [home] is habitable as provided by Section 1201.453.  
4 [The statement must indicate that the home is no longer reserved for  
5 business use.]

6 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,  
7 is amended by adding Section 1201.217 to read as follows:

8 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
9 of real property on which a manufactured home owned by another is  
10 located may declare the home abandoned as provided by this section  
11 if the home has been continuously unoccupied for at least six  
12 months.

13 (b) Before declaring a manufactured home abandoned, the  
14 owner of real property on which the home is located must send a  
15 notice of intent to declare the home abandoned to the owner of the  
16 home and all lienholders at the addresses listed on the home's  
17 statement of ownership and location on file with the department.  
18 Mailing of the notice by certified mail, return receipt requested,  
19 postage prepaid, to the persons required to be notified by this  
20 subsection constitutes conclusive proof of compliance with this  
21 subsection.

22 (c) On receipt of a notice of intent to declare a  
23 manufactured home abandoned, the owner of the home or a lienholder  
24 may freely enter the real property on which the home is located to  
25 remove the home.

26 (d) If the manufactured home remains on the real property  
27 for at least 45 days after the date the notice is postmarked:



1           (1) all liens on the home are extinguished; and

2           (2) the real property owner may declare the home  
3 abandoned and may apply to the department for a statement of  
4 ownership and location listing the real property owner as the owner  
5 of the manufactured home.

6           (e) A new statement of ownership and location issued by the  
7 department under this section transfers, free of any liens, title  
8 to the manufactured home to the real property owner.

9           SECTION 18. Section 1201.219(b), Occupations Code, is  
10 amended to read as follows:

11           (b) Except as provided by Subsection (a), a lien on a  
12 manufactured home is perfected only by filing with the department  
13 the notice of lien on a form provided by the department. The  
14 recordation of a lien with the department is notice to all persons  
15 that the lien exists. Except as expressly provided by Chapter 32,  
16 Tax Code, a lien recorded with the department has priority,  
17 according to the chronological order of recordation, over another  
18 lien or claim against the manufactured home.

19           SECTION 19. Section 1201.221(a), Occupations Code, is  
20 amended to read as follows:

21           (a) On written request, the department shall provide  
22 information held by the department on:

23                   (1) the current ownership and location of a  
24 manufactured home; and

25                   (2) the existence of any tax lien on that home for  
26 which notice has been filed with the department.

27           SECTION 20. Sections 1201.352(c) and (d), Occupations Code,

are amended to read as follows:

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement, the retailer must give the consumer a copy ~~[or a general description]~~ of:

(1) the manufacturer's warranty; ~~and~~

~~[(2) the retailer's warranty.]~~

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:]~~

~~[(1) the manufacturer's warranty,]~~

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return

1 receipt requested. If the consumer refuses to comply with the  
2 department's new order, the manufacturer or retailer, as  
3 applicable:

4 (1) is discharged from the obligations imposed by the  
5 relevant department orders;

6 (2) has no liability to the consumer; and

7 (3) is not subject to an action by the department for  
8 failure to provide warranty service.

9 SECTION 22. Section 1201.361, Occupations Code, is amended  
10 to read as follows:

11 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
12 installations not covered by the retailer's warranty described by  
13 Section 1201.352 and for the installation of all used manufactured  
14 homes, the installer shall give the manufactured home owner a  
15 written warranty that the installation of the home was performed in  
16 accordance with all department standards, rules, orders, and  
17 requirements.

18 (b) The warranty must conspicuously disclose the  
19 requirement that the consumer notify the installer of any claim in  
20 writing in accordance with the terms of the warranty. Unless the  
21 warranty provides for a longer period, the installer has no  
22 obligation or liability for any defect described in a written  
23 notice received from the consumer more than two years after the date  
24 of the installation.

25 SECTION 23. Section 1201.405, Occupations Code, is amended  
26 by adding Subsection (e) to read as follows:

27 (e) In determining the amount of actual damages under this

1 section, the director shall make an independent inquiry as to the  
2 damages actually incurred, unless the damages have been established  
3 by a contested jury trial.

4 SECTION 24. Section 1201.451(a), Occupations Code, is  
5 amended to read as follows:

6 (a) Except as otherwise provided by this subchapter, a  
7 person may not sell, exchange, or lease-purchase a used  
8 manufactured home without the appropriate transfer of good and  
9 marketable title to the home [~~unless the sale, exchange, or~~  
10 ~~lease-purchase is to:~~

11 [~~(1) a purchaser for the purchaser's business use, or~~

12 [~~(2) a rebuilder for the purpose of rebuilding a~~  
13 ~~salvaged manufactured home]~~.

14 SECTION 25. Section 1201.455, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
17 Except as otherwise provided by this subchapter, a person may not  
18 sell, exchange, or lease-purchase a used manufactured home to a  
19 consumer for use as a dwelling without providing a written warranty  
20 that the home is and will remain habitable until the 60th day after  
21 the later of the installation date or the date of the purchase  
22 agreement.

23 (b) Unless, not later than the 65th [~~60th~~] day after the  
24 later of the installation date or the date of the purchase [~~sale,~~  
25 ~~exchange, or lease-purchase~~] agreement, the consumer notifies the  
26 seller in writing of a defect that makes the home not habitable, any  
27 obligation or liability of the seller under this subchapter is

1 terminated. The warranty must conspicuously disclose that notice  
2 requirement to the consumer.

3 (c) If negotiations related to the sale, exchange, or  
4 lease-purchase agreement are conducted primarily in a language  
5 other than English, the written warranty and disclosure must be  
6 provided to the consumer in the language in which the negotiations  
7 are conducted.

8 SECTION 26. The heading to Section 1201.457, Occupations  
9 Code, is amended to read as follows:

10 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
11 OR SALVAGE.

12 SECTION 27. Section 1201.457(b), Occupations Code, is  
13 amended to read as follows:

14 (b) The purchaser of a used manufactured home for business  
15 use or the purchaser of a salvaged manufactured home may not sell,  
16 exchange, or lease-purchase the home for use as a dwelling or allow  
17 any person to occupy or use the home as a dwelling unless the  
18 director issues a new statement of ownership and location  
19 indicating that the home is no longer reserved for business use or  
20 salvage. On the purchaser's application to the department for  
21 issuance of a new statement of ownership and location, the  
22 department shall inspect the home and, if the department determines  
23 that the home is habitable, issue the statement of ownership and  
24 location.

25 SECTION 28. Subchapter Z, Chapter 2306, Government Code, is  
26 amended by adding Section 2306.591 to read as follows:

27 Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

1 (a) For a manufactured home to be approved for installation and use  
2 as a dwelling in a colonia:

3 (1) the home must be a HUD-code manufactured home, as  
4 defined by Section 1201.003, Occupations Code;

5 (2) the home must be habitable, as described by  
6 Section 1201.453, Occupations Code; and

7 (3) ownership of the home must be properly recorded  
8 with the manufactured housing division of the department.

9 (b) An owner of a manufactured home is not eligible to  
10 participate in a grant loan program offered by the department,  
11 including the single-family mortgage revenue bond program under  
12 Section 2306.142, unless the owner complies with Subsection (a).

13 SECTION 29. Section 32.015(a), Tax Code, is amended to read  
14 as follows:

15 (a) On payment of the taxes, penalties, and interest for a  
16 year for which a valid tax lien [~~filed before September 1, 2001,~~]  
17 has been recorded on the title records of the department, the  
18 collector for the taxing unit shall issue a tax certificate showing  
19 no taxes due or a tax paid receipt for such year to the person making  
20 payment. When the tax certificate showing no taxes due or tax paid  
21 receipt is filed with the department, the tax lien is extinguished  
22 and canceled and shall be removed from the title records of the  
23 manufactured home. The collector for a taxing unit may not refuse  
24 to issue a tax paid receipt to the person who offers to pay the  
25 taxes, penalties, and interest for a particular year or years, even  
26 though taxes may also be due for another year or other years.

27 SECTION 30. Section 32.03, Tax Code, is amended by amending

Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien ~~[or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien]~~.

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

(1) before October 1, 2005; or  
(2) not later than six months after the end of the year for which the tax was owed.

(a-2) A person may not transfer title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released. This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on the manufactured home statement of ownership and location ~~[document of title]~~ is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs ~~[imposed in a tax year that begins before January 1, 2001, or penalties or interest on those taxes except for each year for which a valid tax lien was duly filed and recorded under~~

1 ~~Section 32.015, as that section existed on the date the lien was~~  
2 ~~filed, and each year for which the owner of the manufactured home~~  
3 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
4 ~~that section existed before September 1, 2001. The effect and~~  
5 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
6 ~~imposed on a manufactured home in a tax year that begins on or after~~  
7 ~~January 1, 2001, are those established by Sections 32.01 and~~  
8 ~~32.05].~~ In this section, "manufactured home" has the meaning  
9 assigned by Section 32.015(b).

10 SECTION 31. The following laws are repealed:

11 (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
12 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
13 Occupations Code;

14 (2) Sections 32.014(d) and 32.03(c)-(j), Tax Code; and

15 (3) Section 623.093(d), Transportation Code.

16 SECTION 32. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2005.



# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 11, 2005

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** HB2438 by Haggerty (relating to the acquisition and regulation of manufactured homes. ),  
**Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

### Local Government Impact

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 5, 2005

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **HB2438** by Haggerty (Relating to the acquisition and regulation of manufactured homes.),  
As Introduced

**No significant fiscal implication to the State is anticipated.**

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

### Local Government Impact

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

**LBB Staff:** JOB, JRO, MW, TG

4

By: Haggerty, Quintanilla (Senate Sponsor-Armbrister) H.B. No. 2438  
(In the Senate - Received from the House April 29, 2005;  
May 2, 2005, read first time and referred to Committee on Business  
and Commerce; May 13, 2005, reported adversely, with favorable  
Committee Substitute by the following vote: Yeas 7, Nays 0;  
May 13, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR H.B. No. 2438

By: Carona

A BILL TO BE ENTITLED  
AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license ~~[is a license holder]~~. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides ~~[providing]~~ any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

(1) \$100,000 for a manufacturer;

(2) \$50,000 for a retailer;

(3) \$30,000 for a rebuilder;

(4) \$50,000 ~~[\$20,000]~~ for a broker; or

(5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons ~~[persons]~~ regulated under this chapter.

(b) A person who holds a salesperson's license ~~[holder]~~ must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the 90th day after the date the salesperson's initial license is issued. To renew a salesperson's license, a salesperson ~~[Persons]~~ regulated under this chapter ~~[and directly involved in the sale of manufactured housing]~~ must complete an additional eight hours of

certification and continuing education programs for each renewal  
~~[each year]~~. The programs must be presented by a board-approved  
organization or educational institution and must include  
instruction in applicable ~~[address]~~ state and federal law,  
~~[applicable to all manufactured housing retailer practices and~~  
~~relevant]~~ consumer protection regulations, and ethical standards.

(g) The board shall suspend the license of a salesperson  
~~[person]~~ regulated under this chapter who does not complete the  
programs as required by this section. The board shall reinstate the  
license on the salesperson's ~~[person's]~~ completion of the programs.

SECTION 6. Section 1201.114(a), Occupations Code, is  
amended to read as follows:

(a) A manufacturer's, retailer's, broker's, or installer's  
license is valid for one year. A salesperson's license is valid for  
two years. A license ~~[and]~~ may be renewed as provided by the  
director. A person whose license has been suspended or revoked or  
whose license has expired may not engage in activities that require  
a license until the license has been reinstated or renewed.

SECTION 7. Section 1201.151(d), Occupations Code, is  
amended to read as follows:

(d) This section does not apply to:

(1) a deposit held in escrow in a real estate  
transaction; or

(2) money stated to be a down payment in an executed  
retail ~~[installment]~~ sales contract.

SECTION 8. Section 1201.159(a), Occupations Code, is  
amended to read as follows:

(a) A broker shall ensure that the seller gives the buyer  
the applicable disclosures and warranties that the buyer would have  
received if the buyer had purchased the manufactured home through a  
licensed retailer ~~[may but is not required to be the agent of a~~  
~~party involved in the sale, exchange, or lease-purchase of a~~  
~~manufactured home for which a statement of ownership and location~~  
~~has been issued and is outstanding]~~.

SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
are amended to read as follows:

(a) In addition to the disclosure statement required by  
Section 1201.162, the department shall adopt rules creating a  
one-page form printed in at least 12-point type that addresses  
~~[addressing]~~ consumer protection disclosures required in chattel  
mortgage transactions and shall prescribe the form for the  
disclosure statement. A consumer protection disclosure statement  
under this subsection may not contain any blank lines and must  
contain only ~~[include]~~ the following:

(1) a statement of the significant differences between  
chattel mortgages and real estate mortgages;

(2) an itemization of typical ~~[estimated closing]~~  
costs associated with a chattel mortgage purchase of a manufactured  
home ~~[, if any]; and~~

(3) an example ~~[estimate of the total amount]~~ of  
monthly payments in three typical chattel mortgage transactions,  
including an estimate of the amount of the ~~[+]~~

~~[(A)] principal, [and] interest, [payments,~~  
~~[(B) costs of any] required insurance~~  
premium, [+] and

~~[(C) costs for payment of] ad valorem taxes[,]~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home,~~

~~[(4) a statement of the roles of the retailer and any~~  
~~affiliated parties in the financing of the first retail sale, as~~  
~~defined by Section 1201.201, and the estimated compensation that~~  
~~they will receive for providing or arranging the financing, and~~

~~[(5) any other disclosures required by state or~~  
~~federal law, including the Real Estate Settlement Procedures Act of~~  
~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~  
~~(15 U.S.C. Section 1601 et seq.)].~~

(b) A retailer shall provide the consumer protection  
disclosure statement to the consumer ~~[at least 24 hours]~~ before the

completion of the first credit application [~~installment contract is fully executed, as provided by Section 1201.164~~].

SECTION 10. Section 1201.164(a), Occupations Code, is amended to read as follows:

(a) In a chattel mortgage transaction involving an installment contract, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed [~~the disclosure statements required by this subchapter and~~] the contract, with all required information included, signed by the retailer. The delivery of the [~~disclosure statements and~~] installment contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. The consumer may accept the offer not earlier than 24 hours after the delivery of the contract [documents]. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

SECTION 11. Section 1201.2055, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) If [~~the department issues a statement of ownership and location to~~] an owner elects [who has elected] to treat a manufactured home as real property, the department shall issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, the owner must:

(1) file the certified copy in the real property records of the county in which the home is located; and

(2) notify the department that the certified copy has been filed.

(e) A [~~the~~] manufactured home is not considered to be real property until a certified copy of the statement of ownership and location has been filed and the department has been notified of the filing as provided by Subsection (d).

(f) If the department is notified under Subsection (d), the department in a timely manner shall note in its records that a real property election has been perfected. If the department is not notified as described by Subsection (d), the department shall note in its records that a real property election has not been perfected and that the home remains personal property [~~in the real property records of the county in which the home is located~~].

(g) After the department notes in its records that a real property election has been perfected [~~certified copy has been filed in the real property records of the county~~], the home is considered to be real property for all purposes [~~in the form of an improvement to the underlying real property on which the home is located. If a real property election has been made but a certified copy of the statement of ownership and location has not been filed as required by this subsection, the home continues to be treated as personal property until the certified copy is filed~~].

(h) The provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

SECTION 12. Section 1201.206(d), Occupations Code, is amended to read as follows:

(d) Not later than the 30th day after the date of each [At a] subsequent sale or transfer of a [the] home that is considered to be personal property, the seller [purchaser] or transferor [transferee] shall provide to the department a completed application [apply] for the issuance of a new statement of ownership and location.

SECTION 13. Section 1201.207(a), Occupations Code, is amended to read as follows:

(a) The department shall process any completed application for the issuance of a statement of ownership and location not later than the 15th [10th] working day after the date the application is

received by the department. If the department rejects an application, the department shall provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

SECTION 14. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.2076 to read as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. The department may not issue a statement of ownership and location for a manufactured home that is being converted from real property to personal property until:

(1) each lien on the home is released by the lienholder;

(2) each lienholder gives written consent, to be placed on file with the department; or

(3) the department has inspected the home and determined that it is habitable.

SECTION 15. Section 1201.209, Occupations Code, is amended to read as follows:

Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION. The department may not refuse to issue a statement of ownership and location and may not suspend or revoke a statement of ownership and location unless:

(1) the application for issuance of the statement of ownership and location contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership and location;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership and location would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership and location that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a ~~[local]~~ tax lien was filed ~~[before September 1, 2001,~~] and recorded under Section ~~1201.219~~ ~~[32.015, Tax Code, as that section existed on the date the lien was filed,~~] and the lien has not been extinguished.

SECTION 16. Sections 1201.216(a) and (b), Occupations Code, are amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the [The] department shall indicate on the statement of ownership and location for the [a manufactured] home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter [whether the home has been sold, exchanged, or lease-purchased to a purchaser for the purchaser's business use. For a home sold, exchanged, or lease-purchased as described by this subsection, the department shall issue a new statement of ownership and location that indicates that the home is reserved for business use].

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall [may] issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured [for the] home only after an inspection and determination that the structure [home] is habitable as provided by Section 1201.453. [The statement must indicate that the home is no longer reserved for business use.]



SECTION 17. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.217 to read as follows:

Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner of real property on which a manufactured home owned by another is located may declare the home abandoned as provided by this section if the home has been continuously unoccupied for at least four months and any indebtedness secured by the manufactured home is also delinquent.

(b) Before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department. Mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) On receipt of a notice of intent to declare a manufactured home abandoned, the owner of the home or a lienholder may freely enter the real property on which the home is located to remove the home.

(d) If the manufactured home remains on the real property for at least 45 days after the date the notice is postmarked:

(1) all liens on the home are extinguished; and  
 (2) the real property owner may declare the home abandoned and may apply to the department for a statement of ownership and location listing the real property owner as the owner of the manufactured home.

(e) A new statement of ownership and location issued by the department under this section transfers, free of any liens, if there is evidence of United States Postal Service return receipt from all lienholders, title to the manufactured home to the real property owner.

SECTION 18. Section 1201.219(b), Occupations Code, is amended to read as follows:

(b) Except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department. The recordation of a lien with the department is notice to all persons that the lien exists. Except as expressly provided by Chapter 32, Tax Code, a lien recorded with the department has priority, according to the chronological order of recordation, over another lien or claim against the manufactured home.

SECTION 19. Section 1201.221(a), Occupations Code, is amended to read as follows:

(a) On written request, the department shall provide information held by the department on:

(1) the current ownership and location of a manufactured home; and

(2) the existence of all [any] tax liens [lien] on that home for which notice has been filed with the department.

SECTION 20. Sections 1201.352(c) and (d), Occupations Code, are amended to read as follows:

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement, the retailer must give the consumer a copy [or a general description] of:

(1) the manufacturer's warranty; [and  
 [(2) the retailer's warranty.

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:~~

~~[(1) the manufacturer's warranty,]~~  
 (2) the retailer's warranty;  
 (3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer or retailer, as applicable:

(1) is discharged from the obligations imposed by the relevant department orders;

(2) has no liability to the consumer; and

(3) is not subject to an action by the department for failure to provide warranty service.

SECTION 22. Section 1201.361, Occupations Code, is amended to read as follows:

Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary installations not covered by the retailer's warranty described by Section 1201.352 and for the installation of all used manufactured homes, the installer shall give the manufactured home owner a written warranty that the installation of the home was performed in accordance with all department standards, rules, orders, and requirements.

(b) The warranty must conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Unless the warranty provides for a longer period, the installer has no obligation or liability for any defect described in a written notice received from the consumer more than two years after the date of the installation.

SECTION 23. Section 1201.405, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) In determining the amount of actual damages under this section, the director shall make an independent inquiry as to the damages actually incurred, unless the damages have been established by a contested jury trial.

SECTION 24. Section 1201.451(a), Occupations Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home without the appropriate transfer of good and marketable title to the home ~~[unless the sale, exchange, or lease-purchase is to:~~

~~[(1) a purchaser for the purchaser's business use, or  
[(2) a rebuilder for the purpose of rebuilding a salvaged manufactured home].~~

SECTION 25. Section 1201.455, Occupations Code, is amended to read as follows:

Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.

(b) Unless, not later than the 65th ~~[60th]~~ day after the later of the installation date or the date of the sale, exchange, or lease-purchase agreement, the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated. The warranty must conspicuously disclose that notice requirement to the consumer.

SECTION 26. The heading to Section 1201.457, Occupations Code, is amended to read as follows:

Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE

OR SALVAGE.

SECTION 27. Section 1201.457(b), Occupations Code, is amended to read as follows:

(b) The purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home may not sell, exchange, or lease-purchase the home for use as a dwelling or knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage. On the purchaser's application to the department for issuance of a new statement of ownership and location, the department shall inspect the home and, if the department determines that the home is habitable, issue the statement of ownership and location.

SECTION 28. Subchapter Z, Chapter 2306, Government Code, is amended by adding Section 2306.591 to read as follows:

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.  
(a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

SECTION 29. Section 1.04, Tax Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 30. Section 32.014, Tax Code, is amended to read as follows:

Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the owner of a manufactured home has elected to treat the home as real property [is listed together with the land on which the manufactured home is located] under Section 25.08, the tax lien shall be attached [attaches] to the land on which the manufactured home is located.

(b) If the owner of a manufactured home does not elect to treat the home as real property with [is listed separately from] the land on which the manufactured home is located, the tax lien on the manufactured home does not attach to the land on which the home is located.

(c) In this section, "manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

(d) [If a manufactured home is listed together with the land on which the manufactured home is located, a taxing unit with jurisdiction to impose taxes on the land may place a lien on the manufactured home to secure payment of those taxes to the same extent that it can place a lien on the land. If a home is moved from its location and a new statement of ownership and location is not issued under Section 1201.207, Occupations Code, a taxing unit with jurisdiction to impose taxes on the land on which the manufactured home was located retains the right to record and enforce liens on that home to secure the payment of taxes, regardless of where the home is currently located.]

[(e)] This section prevails over Chapter 1201, Occupations Code, to the extent of any conflict.

SECTION 31. Section 32.015(a), Tax Code, is amended to read as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien [~~filed before September 1, 2001,~~] has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 32. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien [~~or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien~~].

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

(1) before October 1, 2005; or  
(2) not later than six months after the end of the year for which the tax was owed.

(a-2) A person may not transfer title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released. This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on the manufactured home statement of ownership and location [~~document of title~~] is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs [~~imposed in a tax year that begins before January 1, 2001, or penalties or interest on those taxes except for each year for which a valid tax lien was duly filed and recorded under Section 32.015, as that section existed on the date the lien was filed, and each year for which the owner of the manufactured home had constructive notice of the taxes under Section 32.015(e), as that section existed before September 1, 2001. The effect and priority of a tax lien that attaches to secure the payment of taxes imposed on a manufactured home in a tax year that begins on or after January 1, 2001, are those established by Sections 32.01 and 32.05~~]. In this section, "manufactured home" has the meaning assigned by Section 32.015(b).

SECTION 33. The following laws are repealed:

(1) Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code;

(2) Sections 32.03(c)-(j), Tax Code; and

(3) Section 623.093(d), Transportation Code.

SECTION 34. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

\* \* \* \* \*

FAVORABLY AS SUBSTITUTED  
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 2438

By Haggerty/Armbrister  
(Author/Senate Sponsor)

5/13/05  
(date)

We, your Committee on BUSINESS AND COMMERCE, to which was referred the attached measure,  
have on May 10 2005, had the same under consideration and I am instructed to report it  
(date of hearing)  
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed  
☒ the caption remained the same as original measure  
☐ the caption changed with adoption of the substitute  
  
☐ do pass as substituted, and be ordered not printed  
  
☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Troy Fraser, Chairman	<input checked="" type="checkbox"/>			
Senator Kip Averitt, Vice-Chairman	<input checked="" type="checkbox"/>			
Senator Ken Armbrister	<input checked="" type="checkbox"/>			
Senator Kim Brimer	<input checked="" type="checkbox"/>			
Senator John Carona	<input checked="" type="checkbox"/>			
Senator Kevin Eltife	<input checked="" type="checkbox"/>			
Senator Craig Estes			<input checked="" type="checkbox"/>	
Senator Eddie Lucio	<input checked="" type="checkbox"/>			
Senator Leticia Van de Putte			<input checked="" type="checkbox"/>	
TOTAL VOTES	7		2	

COMMITTEE ACTION

S260 Considered in public hearing  
S270 Testimony taken

Yatim Baker  
COMMITTEE CLERK

Ty Fran  
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute  
Retain one copy of this form for Committee files

## **BILL ANALYSIS**

Senate Research Center

H.B. 2438  
By: Haggerty (Armbrister)  
Business & Commerce  
5/9/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

H.B. 2438 updates Chapter 1201, Occupations Code. The Texas Manufactured Housing Act was originally created by the Texas Legislature in the mid-1970s and codified into the Occupations Code in 2003. During this time the industry has experienced significant change along with amendments to both the Texas Act and the pre-emptive Federal Manufactured Housing Standards Act.

H.B. 2438 updates language to reflect current industry trends, delete language that is no longer applicable, reference federal mandates, preserve consumer protections, and increase continuing education requirements.

### **RULEMAKING AUTHORITY**

Rulemaking previously granted to the Texas Department of Housing and Community Affairs is modified in SECTION 9 (Section 1201.163, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1201.101(f), Occupations Code, to prohibit a person from acting as a salesperson of manufactured housing unless the person holds a salesperson's license, rather than is a license holder. Prohibits a licensed salesperson from participating in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Amends Section 1201.103(d), Occupations Code, to require an applicant for a salesperson's license to file with the director an application that is sponsored by a licensed, bonded retailer. Makes nonsubstantive changes.

SECTION 3. Amends Section 1201.106(a), Occupations Code, to require an applicant for a license or a license holder to file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the amount of \$50,000, rather than \$20,000, for a broker.

SECTION 4. Amends Section 1201.107, Occupations Code, by adding Subsection (d), to require a retailer or broker, if a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, to take certain actions.

SECTION 5. Amends Sections 1201.113(a), (b), (e), and (g), Occupations Code, as follows:

(a) Makes a conforming change.

(b) Makes a conforming change.

(e) Requires a salesperson to complete eight hours of certification and continuing education programs not later than the 90th day after the date the salesperson's initial license is issued. Requires a salesperson regulated under this chapter, to renew a license under this chapter, to complete an additional eight hours of certification and continuing education programs for each renewal, rather than each year. Requires the programs to be presented by a Manufactured Housing Board of the Texas Department of Housing and

Community Affairs-approved (board) organization or educational institution and to include instruction in applicable state and federal law, consumer protection regulations, and ethical standard, rather than to address state and federal law applicable to all manufactured housing retailer practices and relevant consumer protections regulations and ethical standards. Makes conforming changes.

(g) Makes conforming changes.

SECTION 6. Amends Section 1201.114(a), Occupations Code, to provide that a manufacturer's, retailer's, broker's, or installer's license is valid for one year and that a salesperson's license is valid for two years. Prohibits a person whose license has been suspended or revoked or whose license has expired from engaging in activities that require a license until the license has been reinstated or renewed.

SECTION 7. Amends Section 1201.151(d), Occupations Code, to provide that this section does not apply to money stated to be a down payment in an executed retail, rather than retail installment, sales contract.

SECTION 8. Amends Section 1201.159(a), Occupations Code, to require a broker to ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer. Deletes existing text authorizing a broker to be the agent of party involved in certain transactions involving a manufactured home.

SECTION 9. Amends Sections 1201.163(a) and (b), Occupations Code, as follows:

(a) Requires the Texas Department of Housing and Community Affairs (department) to adopt rules creating a one-page form printed in at least 12-point type that addresses consumer protection disclosures required in chattel mortgage transactions. Prohibits a consumer protection disclosure statement under this subsection from containing any blank lines and requires the statement to contain only, rather than to include, certain information. Amends the specific information which must be contained on the statement.

(b) Requires a retailer to provide the consumer protection disclosure statement to the consumer before the completion of the first credit application, rather than at least 24 hours before the installment contract is fully executed, as provided by Section 1201.164.

SECTION 10. Amends Section 1201.164(a), Occupations Code, to authorize the retailer, if the consumer has not accepted an offer within 72 hours after the delivery of the contract, to withdraw the offer. Makes conforming changes.

SECTION 11. Amends Section 1201.2055, Occupations Code, by amending Subsection (d) and adding Subsections (e), (f), (g), and (h), as follows:

(d) Requires the department, if an owner elects to treat a manufactured home as real property, rather than if the department issues a statement of ownership and location to an owner who has elected to treat a manufactured home as real property, to issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Requires the owner, not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, to file the certified copy in the real property records of the county in which the home is located and notify the department that the certified copy has been filed.

(e) Creates this subsection from text of existing Subsection (d). Provides that a manufactured home is not considered to be real property until the department has been notified of the filing as provided by Subsection (d).

(f) Requires the department, if the department is notified under Subsection (d), to note, in a timely manner, in its records that a real property election has been perfected. Requires the department, if the department is not notified as described by Subsection (d), to note in

its records that a real property election has not been perfected and that the home remains personal property. Deletes existing text relating to the real property records of the county in which the home is located.

(g) Creates this subsection from text of existing Subsection (d). Provides that, after the department notes in its records that a real property election has been perfected, rather than after the certified copy has been filed in the real property records of the county, the home is considered to be real property for all purposes, rather than in the form of an improvement to the underlying real property on which the home is located. Deletes existing text relating to the filing of the certified copy.

(h) Provides that the provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

SECTION 12. Amends Sections 1201.206(d) and (e), Occupations Code, as follows:

(d) Requires the seller or transferor, rather than the purchaser or transferee, not later than the 30th day after the date of each subsequent sale or transfer of a home that is considered to be personal property, to provide to the department a completed application for the issuance of a new statement of ownership and location. Provides that the subsequent sale or transfer of a home that is considered to be real property is treated as a sale or transfer of real property and is not subject to regulation by the department. Makes nonsubstantive changes.

(e) Provides that ownership of a manufactured home does not pass or vest at the first retail sale, rather than at a sale or transfer, of the home until a completed application for the issuance of a statement of ownership and location is filed with the department. Provides that ownership of a manufactured home that is considered to be personal property does not pass or vest at a subsequent sale or transfer of the home until a completed application for the issuance of a statement of ownership and location is filed with the department.

SECTION 13. Amends Section 1201.207(a), Occupations Code, to require the department to process any completed application for the issuance of a statement of ownership and location not later than the 15th, rather than 10th, working day after the date the application is received by the department.

SECTION 14. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.2076, as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. Prohibits the department from issuing a statement of ownership and location for a manufactured home that is being converted from real property to personal property until each lien on the home is released by the lienholder or each lienholder gives written consent, to be placed on file with the department.

SECTION 15. Amends Section 1201.209, Occupations Code, to delete existing text prohibiting the department from refusing to issue a statement of ownership and location and from suspending or revoking a statement of ownership and location unless a local tax lien was filed before September 1, 2001, and recorded under Section 32.015 (Tax Lien on Manufactured Home), Tax Code, as that section existed on the date the lien was filed, and the lien has not been extinguished.

SECTION 16. Amends Sections 1201.216(a) and (b), Occupations Code, as follows:

(a) Requires the department, if the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, to indicate certain information on the statement of ownership and location for the home, rather than the manufactured home. Amends the specific information which is required to be indicated on the statement.



(b) Requires, rather than authorizes, the department, on application and subject to Sections 1201.2076 and 1201.209, to issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured home only after an inspection and determination that the structure, rather than home, is habitable as provide by Section 1201.453. Deletes existing text requiring the statement to indicate that the home is no longer reserved for business use.

SECTION 17. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.217, as follows:

Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned as provided by this section if the home has been continuously unoccupied for at least six months.

(b) Requires the owner of real property on which a manufactured home is located, before declaring the home abandoned, to send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department. Provides that mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) Authorizes the owner of the home or a lienholder, on receipt of a notice of intent to declare a manufactured home abandoned, to freely enter the real property on which the home is located to remove the home.

(d) Provides that, if the manufactured home remains on the real property for at least 45 days after the date the notice is postmarked, all liens on the home are extinguished and the real property owner may declare the home abandoned and may apply to the department for a statement of ownership and location listing the real property owner as the owner of the manufactured home.

(e) Provides that a new statement of ownership and location issued by the department under this section transfers, free of any liens, title to the manufactured home to the real property owner.

SECTION 18. Amends Section 1201.219(b), Occupations Code, to provide that, except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department.

SECTION 19. Amends Section 1201.221(a), Occupations Code, to require the department, on written request, to provide information held by the department on the current location of a manufactured home.

SECTION 20. Amends Sections 1201.352(c) and (d), Occupations Code, as follows:

(c) Deletes existing text requiring the retailer, before the signing of a binding retail installment sales contract or other binding purchase agreement, to give the consumer a general description of the retailer's warranty.

(d) Deletes existing text requiring the retailer, at the time of the initial installation at the consumer's homesite, to deliver to the consumer the manufacturer's warranty.

SECTION 21. Amends Section 1201.357, Occupations Code, by adding Subsection (c), to require the manufacturer or retailer, if the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, to make that allegation in the written statement required by Subsection (a). Requires the department to investigate the allegation, and if the department determines that the allegation is credible, to issue a new order specifying the date and time of the proposed

corrective action. Requires the department to send the order to the consumer and the manufacturer or retailer, as applicable, by a specific method. Provides that, if the consumer refuses to comply with the department's new order, the manufacturer or retailer, as applicable, is discharged from the obligations imposed by the relevant department orders, has no liability to the consumer, and is not subject to an action by the department for failure to provide a warranty service.

SECTION 22. Amends Section 1201.361, Occupations Code, to require the warranty to conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Provides that, unless the warranty provides for a longer period, the installer has no obligation or liability for any defect described in a written notice received from the consumer more than two years after the date of the installation.

SECTION 23. Amends Section 1201.405, Occupations Code, by adding Subsection (e), to require the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs (director), in determining the amount of actual damages under this section, to make an independent inquiry as to the damages actually incurred, unless the damages have been established by a contested jury trial.

SECTION 24. Amends Section 1201.451(a), Occupations Code, to delete existing exceptions to this section if a sale, exchange, or lease-purchase is to a purchaser for the purchaser's business use or a rebuilder for the purpose of rebuilding a salvaged manufactured home.

SECTION 25. Amends Section 1201.455, Occupations Code, as follows:

Sec. 1201.455. **WARRANTY OF HABITABILITY REQUIRED.** Prohibits a person, except as otherwise provided by this subchapter, from selling, exchanging, or lease-purchasing a used manufactured home to a consumer for use as a dwelling without providing a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement. Provides that, unless, not later than the 65th, rather than 60th, day after the later of such dates, the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated. Requires the written warranty and disclosure to be provided to the consumer in the language in which the negotiations are conducted, if negotiations related to the sale, exchange, or lease-purchase agreement are conducted primarily in a language other than English.

SECTION 26. Amends the heading to Section 1201.457, Occupations Code, to read as follows:

Sec. 1201.457. **HABITABILITY: CHANGE TO OR FROM BUSINESS USE OR SALVAGE.**

SECTION 27. Amends Section 1201.457(b), Occupations Code, to prohibit the purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home from selling, exchanging, or lease-purchasing the home for use as a dwelling or allowing any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage.

SECTION 28. Amends Subchapter Z, Chapter 2306, Government Code, by adding Section 2306.591, as follows:

Sec. 2306.591. **MANUFACTURED HOMES INSTALLED IN COLONIAS.** Sets forth specific requirements for a manufactured home to be approved for installation and use as a dwelling in a colonia. Provides that an owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with the requirements of this section.

SECTION 29. Amends Section 32.015(a), Tax Code, to delete existing text relating to a valid tax lien filed before September 1, 2001.

SECTION 30. Amends Section 32.03, Tax Code, by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2), as follows:

(a) Prohibits a tax lien, except as provided by Subsection (a-1), from being enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have an actual notice of the existence of the lien. Deletes existing text providing an exception if the personal property is a manufactured home.

(a-1) Prohibits a tax lien against a manufactured home from being enforced unless it has been recorded with the department as provided by Section 1201.219, Occupations Code, before October 1, 2005, or not later than six months after the end of the year for which the tax was owed.

(a-2) Prohibits a person from transferring title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released. Provides that this subsection does not apply to the sale of a manufactured home in inventory.

(b) Provides that a bona fide purchaser for value or the holder of a lien recorded on the manufactured home statement of ownership and location, rather than document of title, is not required to pay any taxes that have not been recorded with the department, rather than any taxes imposed in a tax year that begins on or before January 1, 2001, or penalties or interest on those taxes, with certain exceptions.

SECTION 31. Repealer: (1) Sections 1201.164(b) (Advance Copy of Installment Contract and Disclosure Statements; Offer by Retailer), 1201.165 (Nonbinding Estimate), 1201.206(a) (Application for Issuance of Statement of Ownership and Location), 1201.215 (Previous Owner or Lienholder Unavailable), 1201.216(c) and (d) (Change in Use), 1201.219(d) (Perfection and Effect of Liens), and 1201.222(b) (Certain Manufactured Homes Considered Real Property), Occupations Code;

(2) Sections 32.014(d) (Tax Lien on Manufactured Home) and 32.03 (c)-(j) (Restrictions on Personal Property Tax Lien), Tax Code;

(3) Section 623.093(d) (Contents of Application and Permit), Transportation Code.

SECTION 32. Effective date: upon passage or September 1, 2005.

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 2438  
By: Haggerty (Armbrister)  
Business & Commerce  
5/11/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

C.S.H.B. 2438 updates Chapter 1201, Occupations Code. The Texas Manufactured Housing Act was originally created by the Texas Legislature in the mid-1970s and codified into the Occupations Code in 2003. During this time the industry has experienced significant change along with amendments to both the Texas Act and the pre-emptive Federal Manufactured Housing Standards Act.

C.S.H.B. 2438 updates language to reflect current industry trends, delete language that is no longer applicable, reference federal mandates, preserve consumer protections, and increase continuing education requirements.

### **RULEMAKING AUTHORITY**

Rulemaking previously granted to the Texas Department of Housing and Community Affairs is modified in SECTION 9 (Section 1201.163, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1201.101(f), Occupations Code, to prohibit a person from acting as a salesperson of manufactured housing unless the person holds a salesperson's license, rather than is a license holder. Prohibits a licensed salesperson from participating in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Amends Section 1201.103(d), Occupations Code, to require an applicant for a salesperson's license to file with the director an application that is sponsored by a licensed, bonded retailer. Makes nonsubstantive changes.

SECTION 3. Amends Section 1201.106(a), Occupations Code, to require an applicant for a license or a license holder to file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the amount of \$50,000, rather than \$20,000, for a broker.

SECTION 4. Amends Section 1201.107, Occupations Code, by adding Subsection (d), to require a retailer or broker, if a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, to take certain actions.

SECTION 5. Amends Sections 1201.113(a), (b), (e), and (g), Occupations Code, as follows:

(a) Makes a conforming change.

(b) Makes a conforming change.

(c) Requires a salesperson to complete eight hours of certification and continuing education programs not later than the 90th day after the date the salesperson's initial license is issued. Requires a salesperson regulated under this chapter, to renew a license under this chapter, to complete an additional eight hours of certification and continuing education programs for each renewal, rather than each year. Requires the programs to be presented by a Manufactured Housing Board of the Texas Department of Housing and

Community Affairs-approved (board) organization or educational institution and to include instruction in applicable state and federal law, consumer protection regulations, and ethical standard, rather than to address state and federal law applicable to all manufactured housing retailer practices and relevant consumer protections regulations and ethical standards. Makes conforming changes.

(g) Makes conforming changes.

SECTION 6. Amends Section 1201.114(a), Occupations Code, to provide that a manufacturer's, retailer's, broker's, or installer's license is valid for one year and that a salesperson's license is valid for two years. Prohibits a person whose license has been suspended or revoked or whose license has expired from engaging in activities that require a license until the license has been reinstated or renewed.

SECTION 7. Amends Section 1201.151(d), Occupations Code, to provide that this section does not apply to money stated to be a down payment in an executed retail, rather than retail installment, sales contract.

SECTION 8. Amends Section 1201.159(a), Occupations Code, to require a broker to ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer. Deletes existing text authorizing a broker to be the agent of party involved in certain transactions involving a manufactured home.

SECTION 9. Amends Sections 1201.163(a) and (b), Occupations Code, as follows:

(a) Requires the Texas Department of Housing and Community Affairs (department) to adopt rules creating a one-page form printed in at least 12-point type that addresses consumer protection disclosures required in chattel mortgage transactions. Prohibits a consumer protection disclosure statement under this subsection from containing any blank lines and requires the statement to contain only, rather than to include, certain information. Amends the specific information which must be contained on the statement.

(b) Requires a retailer to provide the consumer protection disclosure statement to the consumer before the completion of the first credit application, rather than at least 24 hours before the installment contract is fully executed, as provided by Section 1201.164.

SECTION 10. Amends Section 1201.164(a), Occupations Code, to authorize the retailer, if the consumer has not accepted an offer within 72 hours after the delivery of the contract, to withdraw the offer. Makes conforming changes.

SECTION 11. Amends Section 1201.2055, Occupations Code, by amending Subsection (d) and adding Subsections (e), (f), (g), and (h), as follows:

(d) Requires the department, if an owner elects to treat a manufactured home as real property, rather than if the department issues a statement of ownership and location to an owner who has elected to treat a manufactured home as real property, to issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Requires the owner, not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, to file the certified copy in the real property records of the county in which the home is located and notify the department that the certified copy has been filed.

(e) Creates this subsection from text of existing Subsection (d). Provides that a manufactured home is not considered to be real property until the department has been notified of the filing as provided by Subsection (d).

(f) Requires the department, if the department is notified under Subsection (d), to note, in a timely manner, in its records that a real property election has been perfected. Requires the department, if the department is not notified as described by Subsection (d), to note in

its records that a real property election has not been perfected and that the home remains personal property. Deletes existing text relating to the real property records of the county in which the home is located.

(g) Creates this subsection from text of existing Subsection (d). Provides that, after the department notes in its records that a real property election has been perfected, rather than after the certified copy has been filed in the real property records of the county, the home is considered to be real property for all purposes, rather than in the form of an improvement to the underlying real property on which the home is located. Deletes existing text relating to the filing of the certified copy.

(h) Provides that the provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

SECTION 12. Amends Section 1201.206(d), Occupations Code, to require the seller or transferor, rather than the purchaser or transferee, not later than the 30th day after the date of each subsequent sale or transfer of a home that is considered to be personal property, to provide to the department a completed application for the issuance of a new statement of ownership and location. Makes nonsubstantive changes.

SECTION 13. Amends Section 1201.207(a), Occupations Code, to require the department to process any completed application for the issuance of a statement of ownership and location not later than the 15th, rather than 10th, working day after the date the application is received by the department.

SECTION 14. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.2076, as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. Prohibits the department from issuing a statement of ownership and location for a manufactured home that is being converted from real property to personal property until each lien on the home is released by the lienholder, each lienholder gives written consent, to be placed on file with the department, or the department has inspected the home and determined that it is habitable.

SECTION 15. Amends Section 1201.209, Occupations Code, to delete existing text prohibiting the department from refusing to issue a statement of ownership and location and from suspending or revoking a statement of ownership and location unless a local tax lien was filed before September 1, 2001, and recorded under Section 32.015 (Tax Lien on Manufactured Home), Tax Code, as that section existed on the date the lien was filed, and the lien has not been extinguished.

SECTION 16. Amends Sections 1201.216(a) and (b), Occupations Code, as follows:

(a) Requires the department, if the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, to indicate certain information on the statement of ownership and location for the home, rather than the manufactured home. Amends the specific information which is required to be indicated on the statement.

(b) Requires, rather than authorizes, the department, on application and subject to Sections 1201.2076 and 1201.209, to issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured home only after an inspection and determination that the structure, rather than home, is habitable as provide by Section 1201.453. Deletes existing text requiring the statement to indicate that the home is no longer reserved for business use.

SECTION 17. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.217, as follows:

Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned as provided by this section if the home has been continuously unoccupied for at least four months and any indebtedness secured by the manufactured home is also delinquent.

(b) Requires the owner of real property on which a manufactured home is located, before declaring the home abandoned, to send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department. Provides that mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) Authorizes the owner of the home or a lienholder, on receipt of a notice of intent to declare a manufactured home abandoned, to freely enter the real property on which the home is located to remove the home.

(d) Provides that, if the manufactured home remains on the real property for at least 45 days after the date the notice is postmarked, all liens on the home are extinguished and the real property owner may declare the home abandoned and may apply to the department for a statement of ownership and location listing the real property owner as the owner of the manufactured home.

(e) Provides that a new statement of ownership and location issued by the department under this section transfers, free of any liens, title to the manufactured home to the real property owner, if there is evidence of United States Postal Service return receipt from all lienholders.

SECTION 18. Amends Section 1201.219(b), Occupations Code, to provide that, except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department.

SECTION 19. Amends Section 1201.221(a), Occupations Code, to require the department, on written request, to provide information held by the department on the current location of a manufactured home and the existence of all tax liens, rather than any tax lien, on that home for which notice has been filed with the department.

SECTION 20. Amends Sections 1201.352(c) and (d), Occupations Code, as follows:

(c) Deletes existing text requiring the retailer, before the signing of a binding retail installment sales contract or other binding purchase agreement, to give the consumer a general description of the retailer's warranty.

(d) Deletes existing text requiring the retailer, at the time of the initial installation at the consumer's homesite, to deliver to the consumer the manufacturer's warranty.

SECTION 21. Amends Section 1201.357, Occupations Code, by adding Subsection (c), to require the manufacturer or retailer, if the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, to make that allegation in the written statement required by Subsection (a). Requires the department to investigate the allegation, and if the department determines that the allegation is credible, to issue a new order specifying the date and time of the proposed corrective action. Requires the department to send the order to the consumer and the manufacturer or retailer, as applicable, by a specific method. Provides that, if the consumer refuses to comply with the department's new order, the manufacturer or retailer, as applicable, is discharged from the obligations imposed by the relevant department orders, has no liability to the consumer, and is not subject to an action by the department for failure to provide a warranty service.

SECTION 22. Amends Section 1201.361, Occupations Code, to require the warranty to conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Provides that, unless the warranty provides for a longer period, the installer has no obligation or liability for any defect described in a written notice received from the consumer more than two years after the date of the installation.

SECTION 23. Amends Section 1201.405, Occupations Code, by adding Subsection (e), to require the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs (director), in determining the amount of actual damages under this section, to make an independent inquiry as to the damages actually incurred, unless the damages have been established by a contested jury trial.

SECTION 24. Amends Section 1201.451(a), Occupations Code, to delete existing exceptions to this section if a sale, exchange, or lease-purchase is to a purchaser for the purchaser's business use or a rebuilder for the purpose of rebuilding a salvaged manufactured home.

SECTION 25. Amends Section 1201.455, Occupations Code, as follows:

Sec. 1201.455. **WARRANTY OF HABITABILITY REQUIRED.** Prohibits a person, except as otherwise provided by this subchapter, from selling, exchanging, or lease-purchasing a used manufactured home to a consumer for use as a dwelling without providing a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement. Provides that, unless, not later than the 65th, rather than 60th, day after the later of the installation date, the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated.

SECTION 26. Amends the heading to Section 1201.457, Occupations Code, to read as follows:

Sec. 1201.457. **HABITABILITY: CHANGE TO OR FROM BUSINESS USE OR SALVAGE.**

SECTION 27. Amends Section 1201.457(b), Occupations Code, to prohibit the purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home from selling, exchanging, or lease-purchasing the home for use as a dwelling or knowingly allowing any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage.

SECTION 28. Amends Subchapter Z, Chapter 2306, Government Code, by adding Section 2306.591, as follows:

Sec. 2306.591. **MANUFACTURED HOMES INSTALLED IN COLONIAS.** Sets forth specific requirements for a manufactured home to be approved for installation and use as a dwelling in a colonia. Provides that an owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with the requirements of this section.

SECTION 29. Amends Section 1.04, Tax Code, by adding Subdivision (3-a), to provide that, notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055 (Election by Owner), Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided by Section 1201.2055(d), Occupations Code.

SECTION 30. Amends Section 32.014, Tax Code, as follows:

Sec. 32.014. **TAX LIEN ON MANUFACTURED HOME.** Requires the tax lien, if the owner of a manufactured home has elected to treat the home as real property, rather than



if the manufactured home is listed together with the land on which the manufactured home is located, to be attached to the land on which the manufactured home is located. Provides that, if the owner of a manufactured home does not elect to treat the home as real property with, rather than if the manufactured home is listed separately from, the land on which the manufactured home is located, the tax lien on the manufactured home does not attach to the land on which the home is located. Deletes existing text relating to the jurisdiction of a taxing unit if a manufactured home is listed together with the land on which it is located.

SECTION 31. Amends Section 32.015(a), Tax Code, to delete existing text relating to a valid tax lien filed before September 1, 2001.

SECTION 32. Amends Section 32.03, Tax Code, by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2), as follows:

(a) Prohibits a tax lien, except as provided by Subsection (a-1), from being enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have an actual notice of the existence of the lien. Deletes existing text providing an exception if the personal property is a manufactured home.

(a-1) Prohibits a tax lien against a manufactured home from being enforced unless it has been recorded with the department as provided by Section 1201.219, Occupations Code, before October 1, 2005, or not later than six months after the end of the year for which the tax was owed.

(a-2) Prohibits a person from transferring title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released. Provides that this subsection does not apply to the sale of a manufactured home in inventory.

(b) Provides that a bona fide purchaser for value or the holder of a lien recorded on the manufactured home statement of ownership and location, rather than document of title, is not required to pay any taxes that have not been recorded with the department, rather than any taxes imposed in a tax year that begins on or before January 1, 2001, or penalties or interest on those taxes, with certain exceptions.

SECTION 33. Repealer: (1) Sections 1201.164(b) (Advance Copy of Installment Contract and Disclosure Statements; Offer by Retailer), 1201.165 (Nonbinding Estimate), 1201.206(a) (Application for Issuance of Statement of Ownership and Location), 1201.215 (Previous Owner or Lienholder Unavailable), 1201.216(c) and (d) (Change in Use), 1201.219(d) (Perfection and Effect of Liens), and 1201.222(b) (Certain Manufactured Homes Considered Real Property), Occupations Code;

(2) Sections 32.03 (c)-(j) (Restrictions on Personal Property Tax Lien), Tax Code;

(3) Section 623.093(d) (Contents of Application and Permit), Transportation Code.

SECTION 34. Effective date: upon passage or September 1, 2005.

WITNESS LIST

HB 2438

SENATE COMMITTEE REPORT

Business & Commerce

May 10, 2005 - 11:00AM

FOR: Anderson, Jody (The Texas Manufactured Housing Association), Austin, TX

Registering, but not testifying:

For: Bowdert, Mance (Texas Credit Union League), Austin, TX

O'Gorman, Keith (The Texas Manufactured Housing Association), San Antonio, TX

On: Irvine, Tim (Texas Department of Housing and Community Affairs, Manufactured Housing Division), Austin, TX

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 12, 2005**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty ( relating to the acquisition and regulation of manufactured homes.),  
**Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

**Local Government Impact**

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 9, 2005**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (Relating to the acquisition and regulation of manufactured homes.),  
**As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

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The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

**Local Government Impact**

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 11, 2005**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (relating to the acquisition and regulation of manufactured homes. ),  
**Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

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**LBB Staff:** JOB, JRO, MW, TG



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 5, 2005**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (Relating to the acquisition and regulation of manufactured homes.),  
**As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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**Source Agencies:** 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

**LBB Staff:** JOB, JRO, MW, TG

ADOPTED

as amended  
MAY 20, 2005

2972  
L. B. Brown  
Secretary of the Senate

By: Haggerty/Armbrister

H.B. No. 2438

Substitute the following for H.B. No. 2438:

By: Chen

C.S. H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the

1 90th day after the date the salesperson's initial license is  
2 issued. To renew a salesperson's license, a salesperson ~~[Persons]~~  
3 regulated under this chapter ~~[and directly involved in the sale of~~  
4 ~~manufactured housing]~~ must complete an additional eight hours of  
5 certification and continuing education programs for each renewal  
6 ~~[each year].~~ The programs must be presented by a board-approved  
7 organization or educational institution and must include  
8 instruction in applicable ~~[address]~~ state and federal law,  
9 ~~[applicable to all manufactured housing retailer practices and~~  
10 ~~relevant]~~ consumer protection regulations, and ethical standards.

11 (g) The board shall suspend the license of a salesperson  
12 ~~[person]~~ regulated under this chapter who does not complete the  
13 programs as required by this section. The board shall reinstate the  
14 license on the salesperson's ~~[person's]~~ completion of the programs.

15 SECTION 6. Section 1201.114(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A manufacturer's, retailer's, broker's, or installer's  
18 license is valid for one year. A salesperson's license is valid for  
19 two years. A license ~~[and]~~ may be renewed as provided by the  
20 director. A person whose license has been suspended or revoked or  
21 whose license has expired may not engage in activities that require  
22 a license until the license has been reinstated or renewed.

23 SECTION 7. Section 1201.151(d), Occupations Code, is  
24 amended to read as follows:

25 (d) This section does not apply to:

26 (1) a deposit held in escrow in a real estate  
27 transaction; or

1           (2) money stated to be a down payment in an executed  
2 retail [~~installment~~] sales contract.

3           SECTION 8. Section 1201.159(a), Occupations Code, is  
4 amended to read as follows:

5           (a) A broker shall ensure that the seller gives the buyer  
6 the applicable disclosures and warranties that the buyer would have  
7 received if the buyer had purchased the manufactured home through a  
8 licensed retailer [~~may but is not required to be the agent of a~~  
9 ~~party involved in the sale, exchange, or lease-purchase of a~~  
10 ~~manufactured home for which a statement of ownership and location~~  
11 ~~has been issued and is outstanding~~].

12           SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
13 are amended to read as follows:

14           (a) In addition to the disclosure statement required by  
15 Section 1201.162, the department shall adopt rules creating a  
16 one-page form printed in at least 12-point type that addresses  
17 [~~addressing~~] consumer protection disclosures required in chattel  
18 mortgage transactions and shall prescribe the form for the  
19 disclosure statement. A consumer protection disclosure statement  
20 under this subsection may not contain any blank lines and must  
21 contain only [~~include~~] the following:

22           (1) a statement of the significant differences between  
23 chattel mortgages and real estate mortgages;

24           (2) an itemization of typical [~~estimated closing~~]  
25 costs associated with a chattel mortgage purchase of a manufactured  
26 home [~~, if any~~]; and

27           (3) an example [~~estimate of the total amount~~] of

1 monthly payments in three typical chattel mortgage transactions,  
2 including an estimate of the amount of the [+

3 [(A)] principal, [and] interest, [payments,

4 [(B) costs of any] required insurance  
5 premium, [+] and

6 [(C) costs for payment of] ad valorem taxes[  
7 ~~based on the current tax rate of each taxing unit in which the~~  
8 ~~manufactured home will be located as applied to the sales price of~~  
9 ~~the manufactured home,~~

10 ~~[(4) a statement of the roles of the retailer and any~~  
11 ~~affiliated parties in the financing of the first retail sale, as~~  
12 ~~defined by Section 1201.201, and the estimated compensation that~~  
13 ~~they will receive for providing or arranging the financing, and~~

14 ~~[(5) any other disclosures required by state or~~  
15 ~~federal law, including the Real Estate Settlement Procedures Act of~~  
16 ~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~  
17 ~~(15 U.S.C. Section 1601 et seq.)].~~

18 (b) A retailer shall provide the consumer protection  
19 disclosure statement to the consumer [at least 24 hours] before the  
20 completion of the first credit application [installment contract is  
21 ~~fully executed, as provided by Section 1201.164].~~

22 SECTION 10. Section 1201.164(a), Occupations Code, is  
23 amended to read as follows:

24 (a) In a chattel mortgage transaction involving an  
25 installment contract, a retailer shall deliver to a consumer at  
26 least 24 hours before the contract is fully executed [the  
27 ~~disclosure statements required by this subchapter and] the~~

1 contract, with all required information included, signed by the  
2 retailer. The delivery of the [~~disclosure statements and~~]  
3 installment contract, with all required information included,  
4 signed by the retailer constitutes a firm offer by the retailer.  
5 The consumer may accept the offer not earlier than 24 hours after  
6 the delivery of the contract [~~documents~~]. If the consumer has not  
7 accepted the offer within 72 hours after the delivery of the  
8 contract, the retailer may withdraw the offer.

9 SECTION 11. Section 1201.2055, Occupations Code, is amended  
10 by amending Subsection (d) and adding Subsections (e), (f), (g),  
11 and (h) to read as follows:

12 (d) If [~~the department issues a statement of ownership and~~  
13 ~~location to~~] an owner elects [~~who has elected~~] to treat a  
14 manufactured home as real property, the department shall issue to  
15 the owner a certified copy of the statement of ownership and  
16 location that on its face reflects that the owner has elected to  
17 treat the manufactured home as real property at the location listed  
18 on the statement. Not later than the 60th day after the date the  
19 department issues a certified copy of the statement of ownership  
20 and location to the owner, the owner must:

21 (1) file the certified copy in the real property  
22 records of the county in which the home is located; and

23 (2) notify the department that the certified copy has  
24 been filed.

25 (e) A [~~the~~] manufactured home is not considered to be real  
26 property until a certified copy of the statement of ownership and  
27 location has been filed and the department has been notified of the



1 filing as provided by Subsection (d).

2 (f) If the department is notified under Subsection (d), the  
3 department in a timely manner shall note in its records that a real  
4 property election has been perfected. If the department is not  
5 notified as described by Subsection (d), the department shall note  
6 in its records that a real property election has not been perfected  
7 and that the home remains personal property [in the real property  
8 records of the county in which the home is located].

9 (g) After the department notes in its records that a real  
10 property election has been perfected [certified copy has been filed  
11 in the real property records of the county], the home is considered  
12 to be real property for all purposes [in the form of an improvement  
13 to the underlying real property on which the home is located. If a  
14 real property election has been made but a certified copy of the  
15 statement of ownership and location has not been filed as required  
16 by this subsection, the home continues to be treated as personal  
17 property until the certified copy is filed].

18 (h) The provisions of this chapter relating to the  
19 construction or installation of a manufactured home or to  
20 warranties for a manufactured home apply to a home regardless of  
21 whether the home is considered to be real or personal property.

22 SECTION 12. Section 1201.206(d), Occupations Code, is  
23 amended to read as follows:

24 (d) Not later than the 30th day after the date of each [At a]  
25 subsequent sale or transfer of a [the] home that is considered to be  
26 personal property, the seller [purchaser] or transferor  
27 [transferee] shall provide to the department a completed

1 application [~~apply~~] for the issuance of a new statement of  
2 ownership and location.

3 SECTION 13. Section 1201.207(a), Occupations Code, is  
4 amended to read as follows:

5 (a) The department shall process any completed application  
6 for the issuance of a statement of ownership and location not later  
7 than the 15th [~~10th~~] working day after the date the application is  
8 received by the department. If the department rejects an  
9 application, the department shall provide a clear and complete  
10 explanation of the reason for the rejection and instructions on how  
11 to cure any defects, if possible.

12 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
13 is amended by adding Section 1201.2076 to read as follows:

14 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
15 PROPERTY. The department may not issue a statement of ownership and  
16 location for a manufactured home that is being converted from real  
17 property to personal property until:

18 (1) each lien on the home is released by the  
19 lienholder;

20 (2) each lienholder gives written consent, to be  
21 placed on file with the department; or

22 (3) the department has inspected the home and  
23 determined that it is habitable.

24 SECTION 15. Section 1201.209, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
27 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.

1 The department may not refuse to issue a statement of ownership and  
2 location and may not suspend or revoke a statement of ownership and  
3 location unless:

4 (1) the application for issuance of the statement of  
5 ownership and location contains a false or fraudulent statement,  
6 the applicant failed to provide information required by the  
7 director, or the applicant is not entitled to issuance of the  
8 statement of ownership and location;

9 (2) the director has reason to believe that the  
10 manufactured home is stolen or unlawfully converted, or the  
11 issuance of a statement of ownership and location would defraud the  
12 owner or a lienholder of the manufactured home;

13 (3) the director has reason to believe that the  
14 manufactured home is salvaged, and an application for the issuance  
15 of a new statement of ownership and location that indicates that the  
16 home is salvaged has not been filed;

17 (4) the required fee has not been paid;

18 (5) the state sales and use tax has not been paid in  
19 accordance with Chapter 158, Tax Code, and Section 1201.208; or

20 (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
21 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
22 ~~that section existed on the date the lien was filed,~~] and the lien  
23 has not been extinguished.

24 SECTION 16. Sections 1201.216(a) and (b), Occupations Code,  
25 are amended to read as follows:

26 (a) If the owner of a manufactured home notifies the  
27 department that the owner intends to treat the home as real property

1 or to reserve its use for a business purpose or salvage, the [The]  
2 department shall indicate on the statement of ownership and  
3 location for the [a-manufactured] home that:

4 (1) the owner of the home has elected to treat the home  
5 as real property or to reserve its use for a business purpose or  
6 salvage; and

7 (2) except as provided by Section 1201.2055(h), the  
8 department no longer considers the home to be a manufactured home  
9 for purposes of regulation under this chapter [whether the home has  
10 been sold, exchanged, or lease-purchased to a purchaser for the  
11 purchaser's business use. For a home sold, exchanged, or  
12 lease-purchased as described by this subsection, the department  
13 shall issue a new statement of ownership and location that  
14 indicates that the home is reserved for business use].

15 (b) On application and subject to Sections 1201.2076 and  
16 1201.209, the department shall [may] issue for the structure  
17 described in the application a new statement of ownership and  
18 location restoring the structure's designation as a manufactured  
19 [for the] home only after an inspection and determination that the  
20 structure [home] is habitable as provided by Section 1201.453.  
21 [The statement must indicate that the home is no longer reserved for  
22 business use.]

23 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,  
24 is amended by adding Section 1201.217 to read as follows:

25 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
26 of real property on which a manufactured home owned by another is  
27 located may declare the home abandoned as provided by this section

1 if the home has been continuously unoccupied for at least four  
2 months and any indebtedness secured by the manufactured home is  
3 also delinquent.

4 (b) Before declaring a manufactured home abandoned, the  
5 owner of real property on which the home is located must send a  
6 notice of intent to declare the home abandoned to the owner of the  
7 home and all lienholders at the addresses listed on the home's  
8 statement of ownership and location on file with the department.  
9 Mailing of the notice by certified mail, return receipt requested,  
10 postage prepaid, to the persons required to be notified by this  
11 subsection constitutes conclusive proof of compliance with this  
12 subsection.

13 (c) On receipt of a notice of intent to declare a  
14 manufactured home abandoned, the owner of the home or a lienholder  
15 may freely enter the real property on which the home is located to  
16 remove the home.

17 (d) If the manufactured home remains on the real property  
18 for at least 45 days after the date the notice is postmarked:

19 (1) all liens on the home are extinguished; and

20 (2) the real property owner may declare the home  
21 abandoned and may apply to the department for a statement of  
22 ownership and location listing the real property owner as the owner  
23 of the manufactured home.

24 (e) A new statement of ownership and location issued by the  
25 department under this section transfers, free of any liens, if  
26 there is evidence of United States Postal Service return receipt  
27 from all lienholders, title to the manufactured home to the real

1 property owner.

2 SECTION 18. Section 1201.219(b), Occupations Code, is  
3 amended to read as follows:

4 (b) Except as provided by Subsection (a), a lien on a  
5 manufactured home is perfected only by filing with the department  
6 the notice of lien on a form provided by the department. The  
7 recordation of a lien with the department is notice to all persons  
8 that the lien exists. Except as expressly provided by Chapter 32,  
9 Tax Code, a lien recorded with the department has priority,  
10 according to the chronological order of recordation, over another  
11 lien or claim against the manufactured home.

12 SECTION 19. Section 1201.221(a), Occupations Code, is  
13 amended to read as follows:

14 (a) On written request, the department shall provide  
15 information held by the department on:

16 (1) the current ownership and location of a  
17 manufactured home; and

18 (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that  
19 home for which notice has been filed with the department.

20 SECTION 20. Sections 1201.352(c) and (d), Occupations Code,  
21 are amended to read as follows:

22 (c) Before the signing of a binding retail installment sales  
23 contract or other binding purchase agreement, the retailer must  
24 give the consumer a copy ~~[or a general description]~~ of:

25 (1) the manufacturer's warranty; ~~and~~

26 ~~[(2) the retailer's warranty.]~~

27 ~~[(d) At the time of the initial installation at the~~

1 ~~consumer's homesite, the retailer shall deliver to the consumer.~~

2 ~~[(1) the manufacturer's warranty;]~~

3 (2) the retailer's warranty;

4 (3) the warranties given by the manufacturers of  
5 appliances or equipment included with the home; and

6 (4) the name and address of the manufacturer or  
7 retailer to whom the consumer is to give notice of a warranty  
8 service request.

9 SECTION 21. Section 1201.357, Occupations Code, is amended  
10 by adding Subsection (c) to read as follows:

11 (c) If the manufacturer or retailer is unable to provide  
12 warranty service in accordance with the department order under  
13 Section 1201.356 as a result of an action of the consumer, the  
14 manufacturer or retailer must make that allegation in the written  
15 statement required by Subsection (a). The department shall  
16 investigate the allegation, and if the department determines that  
17 the allegation is credible, the department shall issue a new order  
18 specifying the date and time of the proposed corrective action. The  
19 department shall send the order to the consumer and the  
20 manufacturer or retailer, as applicable, by certified mail, return  
21 receipt requested. If the consumer refuses to comply with the  
22 department's new order, the manufacturer or retailer, as  
23 applicable:

24 (1) is discharged from the obligations imposed by the  
25 relevant department orders;

26 (2) has no liability to the consumer; and

27 (3) is not subject to an action by the department for

1 failure to provide warranty service.

2 SECTION 22. Section 1201.361, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
5 installations not covered by the retailer's warranty described by  
6 Section 1201.352 and for the installation of all used manufactured  
7 homes, the installer shall give the manufactured home owner a  
8 written warranty that the installation of the home was performed in  
9 accordance with all department standards, rules, orders, and  
10 requirements.

11 (b) The warranty must conspicuously disclose the  
12 requirement that the consumer notify the installer of any claim in  
13 writing in accordance with the terms of the warranty. Unless the  
14 warranty provides for a longer period, the installer has no  
15 obligation or liability for any defect described in a written  
16 notice received from the consumer more than two years after the date  
17 of the installation.

18 SECTION 23. Section 1201.405, Occupations Code, is amended  
19 by adding Subsection (e) to read as follows:

20 (e) In determining the amount of actual damages under this  
21 section, the director shall make an independent inquiry as to the  
22 damages actually incurred, unless the damages have been established  
23 by a contested jury trial.

24 SECTION 24. Section 1201.451(a), Occupations Code, is  
25 amended to read as follows:

26 (a) Except as otherwise provided by this subchapter, a  
27 person may not sell, exchange, or lease-purchase a used



1 manufactured home without the appropriate transfer of good and  
2 marketable title to the home [~~unless the sale, exchange, or~~  
3 ~~lease-purchase is to:~~

4 [~~(1) a purchaser for the purchaser's business use, or~~  
5 [~~(2) a rebuilder for the purpose of rebuilding a~~  
6 ~~salvaged manufactured home]~~].

7 SECTION 25. Section 1201.455, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
10 Except as otherwise provided by this subchapter, a person may not  
11 sell, exchange, or lease-purchase a used manufactured home to a  
12 consumer for use as a dwelling without providing a written warranty  
13 that the home is and will remain habitable until the 60th day after  
14 the later of the installation date or the date of the purchase  
15 agreement.

16 (b) Unless, not later than the 65th [~~60th~~] day after the  
17 later of the installation date or the date of the sale, exchange, or  
18 lease-purchase agreement, the consumer notifies the seller in  
19 writing of a defect that makes the home not habitable, any  
20 obligation or liability of the seller under this subchapter is  
21 terminated. The warranty must conspicuously disclose that notice  
22 requirement to the consumer.

23 SECTION 26. The heading to Section 1201.457, Occupations  
24 Code, is amended to read as follows:

25 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
26 OR SALVAGE.

27 SECTION 27. Section 1201.457(b), Occupations Code, is

1 amended to read as follows:

2 (b) The purchaser of a used manufactured home for business  
3 use or the purchaser of a salvaged manufactured home may not sell,  
4 exchange, or lease-purchase the home for use as a dwelling or  
5 knowingly allow any person to occupy or use the home as a dwelling  
6 unless the director issues a new statement of ownership and  
7 location indicating that the home is no longer reserved for  
8 business use or salvage. On the purchaser's application to the  
9 department for issuance of a new statement of ownership and  
10 location, the department shall inspect the home and, if the  
11 department determines that the home is habitable, issue the  
12 statement of ownership and location.

13 SECTION 28. Subchapter Z, Chapter 2306, Government Code, is  
14 amended by adding Section 2306.591 to read as follows:

15 Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

16 (a) For a manufactured home to be approved for installation and use  
17 as a dwelling in a colonia:

18 (1) the home must be a HUD-code manufactured home, as  
19 defined by Section 1201.003, Occupations Code;

20 (2) the home must be habitable, as described by  
21 Section 1201.453, Occupations Code; and

22 (3) ownership of the home must be properly recorded  
23 with the manufactured housing division of the department.

24 (b) An owner of a manufactured home is not eligible to  
25 participate in a grant loan program offered by the department,  
26 including the single-family mortgage revenue bond program under  
27 Section 2306.142, unless the owner complies with Subsection (a).

SECTION 29. Section 1.04, Tax Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 30. Section 32.014, Tax Code, is amended to read as follows:

Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the owner of a manufactured home has elected to treat the home as real property ~~[is listed together with the land on which the manufactured home is located]~~ under Section 25.08, the tax lien shall be attached ~~[attaches]~~ to the land on which the manufactured home is located.

(b) If the owner of a manufactured home does not elect to treat the home as real property with ~~[is listed separately from]~~ the land on which the manufactured home is located, the tax lien on the manufactured home does not attach to the land on which the home is located.

(c) In this section, "manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

~~(d) [If a manufactured home is listed together with the land on which the manufactured home is located, a taxing unit with~~

~~jurisdiction to impose taxes on the land may place a lien on the manufactured home to secure payment of those taxes to the same extent that it can place a lien on the land. If a home is moved from its location and a new statement of ownership and location is not issued under Section 1201.207, Occupations Code, a taxing unit with jurisdiction to impose taxes on the land on which the manufactured home was located retains the right to record and enforce liens on that home to secure the payment of taxes, regardless of where the home is currently located.~~

[~~(e)~~] This section prevails over Chapter 1201, Occupations Code, to the extent of any conflict.

SECTION 31. Section 32.015(a), Tax Code, is amended to read as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien [~~filed before September 1, 2001,~~] has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 32. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to

1 read as follows:

2 (a) Except as provided by Subsection (a-1), a [A] tax lien  
3 may not be enforced against personal property transferred to a  
4 buyer in ordinary course of business as defined by Section 1.201(9)  
5 of the Business & Commerce Code for value who does not have actual  
6 notice of the existence of the lien ~~[or, if the personal property is~~  
7 ~~a manufactured home, who does not have constructive notice of the~~  
8 ~~existence of the lien]~~.

9 (a-1) A tax lien against a manufactured home may not be  
10 enforced unless it has been recorded with the Texas Department of  
11 Housing and Community Affairs as provided by Section 1201.219,  
12 Occupations Code:

13 (1) before October 1, 2005; or

14 (2) not later than six months after the end of the year  
15 for which the tax was owed.

16 (a-2) A person may not transfer title of a manufactured home  
17 until all tax liens perfected on the home have been extinguished or  
18 satisfied and released. This subsection does not apply to the sale  
19 of a manufactured home in inventory.

20 (b) A bona fide purchaser for value or the holder of a lien  
21 recorded on the manufactured home statement of ownership and  
22 location ~~[document of title]~~ is not required to pay any taxes that  
23 have not been recorded with the Texas Department of Housing and  
24 Community Affairs ~~[imposed in a tax year that begins before January~~  
25 ~~1, 2001, or penalties or interest on those taxes except for each~~  
26 ~~year for which a valid tax lien was duly filed and recorded under~~  
27 ~~Section 32.015, as that section existed on the date the lien was~~

~~1 filed, and each year for which the owner of the manufactured home~~  
~~2 had constructive notice of the taxes under Section 32.015(e), as~~  
~~3 that section existed before September 1, 2001. The effect and~~  
~~4 priority of a tax lien that attaches to secure the payment of taxes~~  
~~5 imposed on a manufactured home in a tax year that begins on or after~~  
~~6 January 1, 2001, are those established by Sections 32.01 and~~  
~~7 32.05]. In this section, "manufactured home" has the meaning~~  
8 assigned by Section 32.015(b).

9 SECTION 33. The following laws are repealed:

10 (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
11 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
12 Occupations Code;

13 (2) Sections 32.03(c)-(j), Tax Code; and

14 (3) Section 623.093(d), Transportation Code.

15 SECTION 34. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2005.

ADOPTED

15-14

FLOOR AMENDMENT NO. 1

MAY 20 2005

BY:

Wentworth

Latey Law  
Secretary of the Senate

Amend CSHB 2438 as follows:

(1) SECTION 11 of the bill (Senate Committee Report), Section 1201.2055, Occupations Code, on page 3 line 31, between "department" and "that", insert "and the tax assessor collector".

(2) SECTION 11 of the bill (Senate Committee Report), page 3, line 35, after "department", strike "has" and insert "and the tax assessor collector have".

(3) SECTION 11 of the bill (Senate Committee Report), page 3, lines 37-43, strike Subsection (f) and substitute the following:

(f) If notice is provided under Subsection (d), the department in a timely manner shall note in its records that a real property election has been perfected. If notice is not provided as described by Subsection (d), the department and the tax assessor collector shall note in their records that a real property election has not been perfected and that the home remains personal property [in the real property records of the county in which the home is located].

(4) SECTION 11 of the bill (Senate Committee Report), page 3, line 44, after "department", strike "notes in its" and insert "and the tax assessor collector note in their".

(5) Strike SECTION 14 of the bill (Senate Committee Report), and substitute the following:

SECTION 14. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.2076 to read as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. The department may not issue a statement of ownership and location for a manufactured home that is being converted from real property to personal property until:

(1) each lien, including a tax lien, on the home is released by the lienholder;

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department; or

1                   (3) the department has inspected the home and determined that it is  
2 habitable and has notified the appropriate tax assessor collector of the conversion.

3  
4 (6)       Strike SECTION 15 of the bill (Senate Committee Report), page 4, and  
5 substitute the following:

6  
7           SECTION 15. Section 1201.208(a), Occupations Code, is amended as follows:

8           (a) The department may not issue a statement of ownership and  
9 location for a new manufactured home installed for occupancy in this state unless the  
10 state sales and use tax and applicable ad valorem taxes have ~~has~~ been paid.

11  
12 (7)       SECTION 17 of the bill (Senate Committee Report), page 5, line 12, between  
13 "home" and "and", insert ", the tax assessor collector of the county in which the home is  
14 located,".

15  
16 (8)       SECTION 17 of the bill (Senate Committee Report), page 5, line 20, strike  
17 "freely".

18  
19 (9)       SECTION 17 of the bill (Senate Committee Report), page 5, line 21, after  
20 "home.", insert "The home may not be moved without a tax receipt from the tax  
21 assessor collector of the county in which the home is located."

22  
23 (10)      SECTION 17 of the bill (Senate Committee Report), page 5, line 24, between  
24 "liens" and "on", insert ", except the tax lien,".

25  
26 (11)      SECTION 17 of the bill (Senate Committee Report), page 5, line 30, after  
27 "liens," insert "except the tax lien,".

28  
29 (12)      Strike SECTION 18 of the bill (Senate Committee Report), page 5, and  
30 substitute the following:

31  
32           SECTION 18. Section 1201.219 is amended by amending Subsection (d) as  
33 follows:

34           (d) The department shall print on each statement of ownership and  
35 location issued under this subchapter a notice that:

36                   (1) the statement of ownership and location does ~~may~~ not  
37 reflect the existence of a tax lien notice ~~[filed for the manufactured home after~~  
38 ~~the date the statement of ownership and location was issued];~~ and



(2) information about a tax lien for which notice has been filed may be obtained from the tax assessor collector of the county in which the manufactured home is located ~~[department on written request].~~"

(13) Strike SECTION 31 and SECTION 32 of the bill (Senate Committee Report), pages 7-8, and renumber the remaining sections accordingly.

(14) Strike SECTION 33 of the bill (Senate Committee Report), page 8, lines 50-55, and substitute the following:

SECTION 33. The following laws are repealed:

- (1) Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code; and
- (2) Section 623.093(f), Transportation Code.

(15) Add the following appropriately numbered Section:

SECTION \_\_. Section 32.03(j)(1), Tax Code, is amended as follows:

(j) For purposes of this section, unpaid taxes due a taxing unit include:

(1) all unpaid taxes and any penalty and interest due that taxing entity for: ~~[a tax year preceding the current tax year;]~~

(A) four years preceding the current tax year for personal property; and

(B) ten years preceding the current tax year for real property.

(16) Add the following appropriately numbered Section:

SECTION \_\_. Section 1201.212(a), Occupations Code, is amended as follows:

(a) If the ownership of a manufactured home in this state is transferred by inheritance, devise, or bequest, by bankruptcy, receivership, judicial sale, or other involuntary divestiture of ownership, or by any other operation of law, the department shall issue a new statement of ownership and location after receiving a certified copy of:

- (1) the order or bill of sale from an officer making a judicial sale;
- (2) the order appointing a temporary administrator;
- (3) the probate proceedings;
- (4) the letters testamentary or the letters of administration; ~~[or]~~
- (5) if the administration of an estate is not necessary, an affidavit by all of the heirs at law showing:

(A) that administration is not necessary; and

- 1 (B) the name in which the statement of ownership and  
2 location should be issued; and [-]  
3 (6) a tax certificate showing no ad valorem taxes remain due.

ADOPTED

MAY 20 2005

*Letty Spaul*  
Secretary of the Senate  
BY: *J. J. Ding*

FLOOR AMENDMENT NO. 3

Amend C.S.H.B. No. 2438 (Senate Committee Printing) as follows:

(1) Between Sections 24 and 25 of the bill (page 6, between lines 50 and 51), insert the following appropriately numbered section and renumber subsequent sections accordingly:

SECTION \_\_. Section 1201.452(b), Occupations Code, is amended to read as follows:

(b) If the home does not have the appropriate seal or label, the person must:

- (1) apply to the department for a seal; ~~and~~
- (2) pay the fee; and
- (3) submit to the department a copy of any written disclosure required under Section 1201.455(a).

(2) In Section 25 of the bill, in the heading to amended Section 1201.455, Occupations Code (page 6, line 53), between "Sec. 1204.455." and "WARRANTY", insert "WRITTEN DISCLOSURE AND".

(3) In Section 25 of the bill, in amended Section 1201.455, Occupations Code (page 6, lines 53-59), strike Subsection (a) and substitute the following:

(a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing:

(1) a written disclosure, on a form prescribed by the department, describing in detail the condition of the home and of any appliances that are included in the home; and

(2) a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.

1           (4) Between Sections 33 and 34 of the bill (page 8, between  
2 lines 55 and 56), insert the following appropriately numbered  
3 section and renumber subsequent sections accordingly:

4           SECTION \_\_. Not later than November 1, 2005, the Texas  
5 Department of Housing and Community Affairs shall prepare and make  
6 available to the public the disclosure form required by Section  
7 1201.455(a), Occupations Code, as amended by this Act.

# SENATE AMENDMENTS 05 MAY 21 AM 3:58

2<sup>nd</sup> Printing

HOUSE OF REPRESENTATIVES

By: Haggerty, Quintanilla

H.B. No. 2438

## A BILL TO BE ENTITLED

### AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license ~~[is a license holder]~~. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides ~~[providing]~~ any information the director considers necessary ~~[+]~~ and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the

issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of

1 certification and continuing education programs not later than the  
 2 90th day after the date the salesperson's initial license is  
 3 issued. To renew a salesperson's license, a salesperson ~~[Persons]~~  
 4 ~~regulated under this chapter [and directly involved in the sale of~~  
 5 ~~manufactured housing]~~ must complete an additional eight hours of  
 6 certification and continuing education programs for each renewal  
 7 ~~[each year]~~. The programs must be presented by a board-approved  
 8 organization or educational institution and must include  
 9 instruction in applicable ~~[address]~~ state and federal law,  
 10 ~~[applicable to all manufactured housing retailer practices and~~  
 11 ~~relevant]~~ consumer protection regulations, and ethical standards.

12 (g) The board shall suspend the license of a salesperson  
 13 ~~[person]~~ regulated under this chapter who does not complete the  
 14 programs as required by this section. The board shall reinstate the  
 15 license on the salesperson's ~~[person's]~~ completion of the programs.

16 SECTION 6. Section 1201.114(a), Occupations Code, is  
 17 amended to read as follows:

18 (a) A manufacturer's, retailer's, broker's, or installer's  
 19 license is valid for one year. A salesperson's license is valid for  
 20 two years. A license ~~[and]~~ may be renewed as provided by the  
 21 director. A person whose license has been suspended or revoked or  
 22 whose license has expired may not engage in activities that require  
 23 a license until the license has been reinstated or renewed.

24 SECTION 7. Section 1201.151(d), Occupations Code, is  
 25 amended to read as follows:

26 (d) This section does not apply to:

27 (1) a deposit held in escrow in a real estate

1 transaction; or

2 (2) money stated to be a down payment in an executed  
3 retail [~~installment~~] sales contract.

4 SECTION 8. Section 1201.159(a), Occupations Code, is  
5 amended to read as follows:

6 (a) A broker shall ensure that the seller gives the buyer  
7 the applicable disclosures and warranties that the buyer would have  
8 received if the buyer had purchased the manufactured home through a  
9 licensed retailer [~~may but is not required to be the agent of a~~  
10 ~~party involved in the sale, exchange, or lease-purchase of a~~  
11 ~~manufactured home for which a statement of ownership and location~~  
12 ~~has been issued and is outstanding~~].

13 SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
14 are amended to read as follows:

15 (a) In addition to the disclosure statement required by  
16 Section 1201.162, the department shall adopt rules creating a  
17 one-page form printed in at least 12-point type that addresses  
18 [~~addressing~~] consumer protection disclosures required in chattel  
19 mortgage transactions and shall prescribe the form for the  
20 disclosure statement. A consumer protection disclosure statement  
21 under this subsection may not contain any blank lines and must  
22 contain only [~~include~~] the following:

23 (1) a statement of the significant differences between  
24 chattel mortgages and real estate mortgages;

25 (2) an itemization of typical [~~estimated closing~~]  
26 costs associated with a chattel mortgage purchase of a manufactured  
27 home [~~, if any~~];



(3) an example ~~[estimate of the total amount]~~ of monthly payments in three typical chattel mortgage transactions, including an estimate of the amount of the [+

~~[(A)] principal, [and] interest, [payments,~~  
~~[(B) costs of any]~~ required insurance premium, [+] and

~~[(C) costs for payment of]~~ ad valorem taxes~~[-~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home];~~

(4) a statement of the roles of the retailer and any affiliated parties in the financing of the first retail sale, as defined by Section 1201.201, and the estimated compensation that they will receive for providing or arranging the financing; and

(5) any other disclosures required by state or federal law, including the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

(b) A retailer shall provide the consumer protection disclosure statement to the consumer ~~[at least 24 hours]~~ before the completion of the first credit application ~~[installment contract is fully executed, as provided by Section 1201.164]~~.

SECTION 10. Section 1201.164(a), Occupations Code, is amended to read as follows:

(a) In a chattel mortgage transaction involving an installment contract, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed ~~[the~~

~~disclosure statements required by this subchapter and]~~ the contract, with all required information included, signed by the retailer. The delivery of the ~~[disclosure statements and]~~ installment contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. The consumer may accept the offer not earlier than 24 hours after the delivery of the contract ~~[documents]~~. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

SECTION 11. Section 1201.2055, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) If ~~[the department issues a statement of ownership and location to]~~ an owner elects ~~[who has elected]~~ to treat a manufactured home as real property, the department shall issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, the owner must:

(1) file the certified copy in the real property records of the county in which the home is located; and

(2) notify the department that the certified copy has been filed.

(e) A ~~[the]~~ manufactured home is not considered to be real property until a certified copy of the statement of ownership and

1 location has been filed and the department has been notified of the  
2 filing as provided by Subsection (d).

3 (f) If the department is notified under Subsection (d), the  
4 department in a timely manner shall note in its records that a real  
5 property election has been perfected. If the department is not  
6 notified as described by Subsection (d), the department shall note  
7 in its records that a real property election has not been perfected  
8 and that the home remains personal property [in the real property  
9 records of the county in which the home is located].

10 (g) After the department notes in its records that a real  
11 property election has been perfected [certified copy has been filed  
12 in the real property records of the county], the home is considered  
13 to be real property for all purposes [in the form of an improvement  
14 to the underlying real property on which the home is located. If a  
15 real property election has been made but a certified copy of the  
16 statement of ownership and location has not been filed as required  
17 by this subsection, the home continues to be treated as personal  
18 property until the certified copy is filed].

19 (h) The provisions of this chapter relating to the  
20 construction or installation of a manufactured home or to  
21 warranties for a manufactured home apply to a home regardless of  
22 whether the home is considered to be real or personal property.

23 SECTION 12. Sections 1201.206(d) and (e), Occupations Code,  
24 are amended to read as follows:

25 (d) Not later than the 30th day after the date of each [At a]  
26 subsequent sale or transfer of a [the] home that is considered to be  
27 personal property, the seller [purchaser] or transferor

1 ~~[transferee]~~ shall provide to the department a completed  
 2 application ~~[apply]~~ for the issuance of a new statement of  
 3 ownership and location. The subsequent sale or transfer of a home  
 4 that is considered to be real property is treated as a sale or  
 5 transfer of real property and is not subject to regulation by the  
 6 department.

7 (e) Ownership of a manufactured home does not pass or vest  
 8 at the first retail ~~[a]~~ sale ~~[or transfer]~~ of the home until a  
 9 completed application for the issuance of a statement of ownership  
 10 and location is filed with the department. Ownership of a  
 11 manufactured home that is considered to be personal property does  
 12 not pass or vest at a subsequent sale or transfer of the home until a  
 13 completed application for the issuance of a statement of ownership  
 14 and location is filed with the department.

15 SECTION 13. Section 1201.207(a), Occupations Code, is  
 16 amended to read as follows:

17 (a) The department shall process any completed application  
 18 for the issuance of a statement of ownership and location not later  
 19 than the 15th ~~[10th]~~ working day after the date the application is  
 20 received by the department. If the department rejects an  
 21 application, the department shall provide a clear and complete  
 22 explanation of the reason for the rejection and instructions on how  
 23 to cure any defects, if possible.

24 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
 25 is amended by adding Section 1201.2076 to read as follows:

26 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
 27 PROPERTY. The department may not issue a statement of ownership and

1 location for a manufactured home that is being converted from real  
2 property to personal property until:

3 (1) each lien on the home is released by the  
4 lienholder; or

5 (2) each lienholder gives written consent, to be  
6 placed on file with the department.

7 SECTION 15. Section 1201.209, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
10 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.  
11 The department may not refuse to issue a statement of ownership and  
12 location and may not suspend or revoke a statement of ownership and  
13 location unless:

14 (1) the application for issuance of the statement of  
15 ownership and location contains a false or fraudulent statement,  
16 the applicant failed to provide information required by the  
17 director, or the applicant is not entitled to issuance of the  
18 statement of ownership and location;

19 (2) the director has reason to believe that the  
20 manufactured home is stolen or unlawfully converted, or the  
21 issuance of a statement of ownership and location would defraud the  
22 owner or a lienholder of the manufactured home;

23 (3) the director has reason to believe that the  
24 manufactured home is salvaged, and an application for the issuance  
25 of a new statement of ownership and location that indicates that the  
26 home is salvaged has not been filed;

27 (4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a ~~[local]~~ tax lien was filed ~~[before September 1, 2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as that section existed on the date the lien was filed,~~] and the lien has not been extinguished.

SECTION 16. Sections 1201.216(a) and (b), Occupations Code, are amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the ~~[The]~~ department shall indicate on the statement of ownership and location for the ~~[a manufactured]~~ home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter ~~[whether the home has been sold, exchanged, or lease-purchased to a purchaser for the purchaser's business use. For a home sold, exchanged, or lease-purchased as described by this subsection, the department shall issue a new statement of ownership and location that indicates that the home is reserved for business use].~~

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall ~~[may]~~ issue for the structure described in the application a new statement of ownership and

1 location restoring the structure's designation as a manufactured  
2 [for the] home only after an inspection and determination that the  
3 structure [home] is habitable as provided by Section 1201.453.  
4 [The statement must indicate that the home is no longer reserved for  
5 business use.]

6 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,  
7 is amended by adding Section 1201.217 to read as follows:

8 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
9 of real property on which a manufactured home owned by another is  
10 located may declare the home abandoned as provided by this section  
11 if the home has been continuously unoccupied for at least six  
12 months.

13 (b) Before declaring a manufactured home abandoned, the  
14 owner of real property on which the home is located must send a  
15 notice of intent to declare the home abandoned to the owner of the  
16 home and all lienholders at the addresses listed on the home's  
17 statement of ownership and location on file with the department.  
18 Mailing of the notice by certified mail, return receipt requested,  
19 postage prepaid, to the persons required to be notified by this  
20 subsection constitutes conclusive proof of compliance with this  
21 subsection.

22 (c) On receipt of a notice of intent to declare a  
23 manufactured home abandoned, the owner of the home or a lienholder  
24 may freely enter the real property on which the home is located to  
25 remove the home.

26 (d) If the manufactured home remains on the real property  
27 for at least 45 days after the date the notice is postmarked:

1           (1) all liens on the home are extinguished; and

2           (2) the real property owner may declare the home  
3 abandoned and may apply to the department for a statement of  
4 ownership and location listing the real property owner as the owner  
5 of the manufactured home.

6           (e) A new statement of ownership and location issued by the  
7 department under this section transfers, free of any liens, title  
8 to the manufactured home to the real property owner.

9           SECTION 18. Section 1201.219(b), Occupations Code, is  
10 amended to read as follows:

11           (b) Except as provided by Subsection (a), a lien on a  
12 manufactured home is perfected only by filing with the department  
13 the notice of lien on a form provided by the department. The  
14 recordation of a lien with the department is notice to all persons  
15 that the lien exists. Except as expressly provided by Chapter 32,  
16 Tax Code, a lien recorded with the department has priority,  
17 according to the chronological order of recordation, over another  
18 lien or claim against the manufactured home.

19           SECTION 19. Section 1201.221(a), Occupations Code, is  
20 amended to read as follows:

21           (a) On written request, the department shall provide  
22 information held by the department on:

23                   (1) the current ownership and location of a  
24 manufactured home; and

25                   (2) the existence of any tax lien on that home for  
26 which notice has been filed with the department.

27           SECTION 20. Sections 1201.352(c) and (d), Occupations Code,



are amended to read as follows:

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement, the retailer must give the consumer a copy ~~[or a general description]~~ of:

- (1) the manufacturer's warranty; ~~and~~
- ~~[(2) the retailer's warranty.]~~

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:~~

- ~~[(1) the manufacturer's warranty,]~~

- (2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return

1 receipt requested. If the consumer refuses to comply with the  
2 department's new order, the manufacturer or retailer, as  
3 applicable:

4 (1) is discharged from the obligations imposed by the  
5 relevant department orders;

6 (2) has no liability to the consumer; and

7 (3) is not subject to an action by the department for  
8 failure to provide warranty service.

9 SECTION 22. Section 1201.361, Occupations Code, is amended  
10 to read as follows:

11 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
12 installations not covered by the retailer's warranty described by  
13 Section 1201.352 and for the installation of all used manufactured  
14 homes, the installer shall give the manufactured home owner a  
15 written warranty that the installation of the home was performed in  
16 accordance with all department standards, rules, orders, and  
17 requirements.

18 (b) The warranty must conspicuously disclose the  
19 requirement that the consumer notify the installer of any claim in  
20 writing in accordance with the terms of the warranty. Unless the  
21 warranty provides for a longer period, the installer has no  
22 obligation or liability for any defect described in a written  
23 notice received from the consumer more than two years after the date  
24 of the installation.

25 SECTION 23. Section 1201.405, Occupations Code, is amended  
26 by adding Subsection (e) to read as follows:

27 (e) In determining the amount of actual damages under this

1 section, the director shall make an independent inquiry as to the  
2 damages actually incurred, unless the damages have been established  
3 by a contested jury trial.

4 SECTION 24. Section 1201.451(a), Occupations Code, is  
5 amended to read as follows:

6 (a) Except as otherwise provided by this subchapter, a  
7 person may not sell, exchange, or lease-purchase a used  
8 manufactured home without the appropriate transfer of good and  
9 marketable title to the home [~~unless the sale, exchange, or~~  
10 ~~lease-purchase is to:~~

11 [~~(1) a purchaser for the purchaser's business use, or~~

12 [~~(2) a rebuilder for the purpose of rebuilding a~~  
13 ~~salvaged manufactured home]~~.

14 SECTION 25. Section 1201.455, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
17 Except as otherwise provided by this subchapter, a person may not  
18 sell, exchange, or lease-purchase a used manufactured home to a  
19 consumer for use as a dwelling without providing a written warranty  
20 that the home is and will remain habitable until the 60th day after  
21 the later of the installation date or the date of the purchase  
22 agreement.

23 (b) Unless, not later than the 65th [~~60th~~] day after the  
24 later of the installation date or the date of the purchase [~~sale,~~  
25 ~~exchange, or lease-purchase~~] agreement, the consumer notifies the  
26 seller in writing of a defect that makes the home not habitable, any  
27 obligation or liability of the seller under this subchapter is

1 terminated. The warranty must conspicuously disclose that notice  
2 requirement to the consumer.

3 (c) If negotiations related to the sale, exchange, or  
4 lease-purchase agreement are conducted primarily in a language  
5 other than English, the written warranty and disclosure must be  
6 provided to the consumer in the language in which the negotiations  
7 are conducted.

8 SECTION 26. The heading to Section 1201.457, Occupations  
9 Code, is amended to read as follows:

10 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
11 OR SALVAGE.

12 SECTION 27. Section 1201.457(b), Occupations Code, is  
13 amended to read as follows:

14 (b) The purchaser of a used manufactured home for business  
15 use or the purchaser of a salvaged manufactured home may not sell,  
16 exchange, or lease-purchase the home for use as a dwelling or allow  
17 any person to occupy or use the home as a dwelling unless the  
18 director issues a new statement of ownership and location  
19 indicating that the home is no longer reserved for business use or  
20 salvage. On the purchaser's application to the department for  
21 issuance of a new statement of ownership and location, the  
22 department shall inspect the home and, if the department determines  
23 that the home is habitable, issue the statement of ownership and  
24 location.

25 SECTION 28. Subchapter Z, Chapter 2306, Government Code, is  
26 amended by adding Section 2306.591 to read as follows:

27 Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

1 (a) For a manufactured home to be approved for installation and use  
2 as a dwelling in a colonia:

3 (1) the home must be a HUD-code manufactured home, as  
4 defined by Section 1201.003, Occupations Code;

5 (2) the home must be habitable, as described by  
6 Section 1201.453, Occupations Code; and

7 (3) ownership of the home must be properly recorded  
8 with the manufactured housing division of the department.

9 (b) An owner of a manufactured home is not eligible to  
10 participate in a grant loan program offered by the department,  
11 including the single-family mortgage revenue bond program under  
12 Section 2306.142, unless the owner complies with Subsection (a).

13 SECTION 29. Section 32.015(a), Tax Code, is amended to read  
14 as follows:

15 (a) On payment of the taxes, penalties, and interest for a  
16 year for which a valid tax lien [~~filed before September 1, 2001,~~]  
17 has been recorded on the title records of the department, the  
18 collector for the taxing unit shall issue a tax certificate showing  
19 no taxes due or a tax paid receipt for such year to the person making  
20 payment. When the tax certificate showing no taxes due or tax paid  
21 receipt is filed with the department, the tax lien is extinguished  
22 and canceled and shall be removed from the title records of the  
23 manufactured home. The collector for a taxing unit may not refuse  
24 to issue a tax paid receipt to the person who offers to pay the  
25 taxes, penalties, and interest for a particular year or years, even  
26 though taxes may also be due for another year or other years.

27 SECTION 30. Section 32.03, Tax Code, is amended by amending

Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien ~~[or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien]~~.

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

(1) before October 1, 2005; or

(2) not later than six months after the end of the year for which the tax was owed.

(a-2) A person may not transfer title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released. This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on the manufactured home statement of ownership and location ~~[document of title]~~ is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs ~~[imposed in a tax year that begins before January 1, 2001, or penalties or interest on those taxes except for each year for which a valid tax lien was duly filed and recorded under~~

1 ~~Section 32.015, as that section existed on the date the lien was~~  
2 ~~filed, and each year for which the owner of the manufactured home~~  
3 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
4 ~~that section existed before September 1, 2001. The effect and~~  
5 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
6 ~~imposed on a manufactured home in a tax year that begins on or after~~  
7 ~~January 1, 2001, are those established by Sections 32.01 and~~  
8 ~~32.05].~~ In this section, "manufactured home" has the meaning  
9 assigned by Section 32.015(b).

10 SECTION 31. The following laws are repealed:

11 (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
12 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
13 Occupations Code;

14 (2) Sections 32.014(d) and 32.03(c)-(j), Tax Code; and

15 (3) Section 623.093(d), Transportation Code.

16 SECTION 32. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2005.

ADOPTED

as amended

MAY 20, 2005

2972  
L. Ray Brown  
Secretary of the Senate

By: Haggerty/Armbrister

H.B. No. 2438

Substitute the following for H.B. No. 2438:

By: Chen

C.S. H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:



- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the

1 90th day after the date the salesperson's initial license is  
2 issued. To renew a salesperson's license, a salesperson [Persons]  
3 regulated under this chapter [~~and directly involved in the sale of~~  
4 ~~manufactured housing~~] must complete an additional eight hours of  
5 certification and continuing education programs for each renewal  
6 [~~each year~~]. The programs must be presented by a board-approved  
7 organization or educational institution and must include  
8 instruction in applicable [~~address~~] state and federal law,  
9 [~~applicable to all manufactured housing retailer practices and~~  
10 ~~relevant~~] consumer protection regulations, and ethical standards.

11 (g) The board shall suspend the license of a salesperson  
12 [~~person~~] regulated under this chapter who does not complete the  
13 programs as required by this section. The board shall reinstate the  
14 license on the salesperson's [~~person's~~] completion of the programs.

15 SECTION 6. Section 1201.114(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A manufacturer's, retailer's, broker's, or installer's  
18 license is valid for one year. A salesperson's license is valid for  
19 two years. A license [~~and~~] may be renewed as provided by the  
20 director. A person whose license has been suspended or revoked or  
21 whose license has expired may not engage in activities that require  
22 a license until the license has been reinstated or renewed.

23 SECTION 7. Section 1201.151(d), Occupations Code, is  
24 amended to read as follows:

25 (d) This section does not apply to:

26 (1) a deposit held in escrow in a real estate  
27 transaction; or

1 (2) money stated to be a down payment in an executed  
2 retail [~~installment~~] sales contract.

3 SECTION 8. Section 1201.159(a), Occupations Code, is  
4 amended to read as follows:

5 (a) A broker shall ensure that the seller gives the buyer  
6 the applicable disclosures and warranties that the buyer would have  
7 received if the buyer had purchased the manufactured home through a  
8 licensed retailer [~~may but is not required to be the agent of a~~  
9 ~~party involved in the sale, exchange, or lease-purchase of a~~  
10 ~~manufactured home for which a statement of ownership and location~~  
11 ~~has been issued and is outstanding~~].

12 SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
13 are amended to read as follows:

14 (a) In addition to the disclosure statement required by  
15 Section 1201.162, the department shall adopt rules creating a  
16 one-page form printed in at least 12-point type that addresses  
17 [~~addressing~~] consumer protection disclosures required in chattel  
18 mortgage transactions and shall prescribe the form for the  
19 disclosure statement. A consumer protection disclosure statement  
20 under this subsection may not contain any blank lines and must  
21 contain only [~~include~~] the following:

22 (1) a statement of the significant differences between  
23 chattel mortgages and real estate mortgages;

24 (2) an itemization of typical [~~estimated-closing~~]  
25 costs associated with a chattel mortgage purchase of a manufactured  
26 home [~~, if any~~]; and

27 (3) an example [~~estimate of the total amount~~] of

1 monthly payments in three typical chattel mortgage transactions,  
2 including an estimate of the amount of the [+

3 [~~(A)~~] principal, [~~and~~] interest, [~~payments,~~  
4 [~~(B)~~ costs of any] required insurance  
5 premium, [+] and

6 [~~(C)~~ costs for payment of] ad valorem taxes[,  
7 ~~based on the current tax rate of each taxing unit in which the~~  
8 ~~manufactured home will be located as applied to the sales price of~~  
9 ~~the manufactured home,~~

10 [~~(4)~~ a statement of the roles of the retailer and any  
11 ~~affiliated parties in the financing of the first retail sale, as~~  
12 ~~defined by Section 1201.201, and the estimated compensation that~~  
13 ~~they will receive for providing or arranging the financing, and~~

14 [~~(5)~~ any other disclosures required by state or  
15 ~~federal law, including the Real Estate Settlement Procedures Act of~~  
16 ~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~  
17 ~~(15 U.S.C. Section 1601 et seq.)~~].

18 (b) A retailer shall provide the consumer protection  
19 disclosure statement to the consumer [~~at least 24 hours~~] before the  
20 completion of the first credit application [~~installment contract is~~  
21 ~~fully executed, as provided by Section 1201.164~~].

22 SECTION 10. Section 1201.164(a), Occupations Code, is  
23 amended to read as follows:

24 (a) In a chattel mortgage transaction involving an  
25 installment contract, a retailer shall deliver to a consumer at  
26 least 24 hours before the contract is fully executed [~~the~~  
27 ~~disclosure statements required by this subchapter and~~] the

1 contract, with all required information included, signed by the  
2 retailer. The delivery of the ~~[disclosure statements and]~~  
3 installment contract, with all required information included,  
4 signed by the retailer constitutes a firm offer by the retailer.  
5 The consumer may accept the offer not earlier than 24 hours after  
6 the delivery of the contract [documents]. If the consumer has not  
7 accepted the offer within 72 hours after the delivery of the  
8 contract, the retailer may withdraw the offer.

9 SECTION 11. Section 1201.2055, Occupations Code, is amended  
10 by amending Subsection (d) and adding Subsections (e), (f), (g),  
11 and (h) to read as follows:

12 (d) If ~~[the department issues a statement of ownership and~~  
13 ~~location to]~~ an owner elects ~~[who has elected]~~ to treat a  
14 manufactured home as real property, the department shall issue to  
15 the owner a certified copy of the statement of ownership and  
16 location that on its face reflects that the owner has elected to  
17 treat the manufactured home as real property at the location listed  
18 on the statement. Not later than the 60th day after the date the  
19 department issues a certified copy of the statement of ownership  
20 and location to the owner, the owner must:

21 (1) file the certified copy in the real property  
22 records of the county in which the home is located; and

23 (2) notify the department that the certified copy has  
24 been filed.

25 (e) A ~~[the]~~ manufactured home is not considered to be real  
26 property until a certified copy of the statement of ownership and  
27 location has been filed and the department has been notified of the

1 filing as provided by Subsection (d).

2 (f) If the department is notified under Subsection (d), the  
3 department in a timely manner shall note in its records that a real  
4 property election has been perfected. If the department is not  
5 notified as described by Subsection (d), the department shall note  
6 in its records that a real property election has not been perfected  
7 and that the home remains personal property ~~[in the real property~~  
8 ~~records of the county in which the home is located]~~.

9 (g) After the department notes in its records that a real  
10 property election has been perfected ~~[certified copy has been filed~~  
11 ~~in the real property records of the county]~~, the home is considered  
12 to be real property for all purposes ~~[in the form of an improvement~~  
13 ~~to the underlying real property on which the home is located. If a~~  
14 ~~real property election has been made but a certified copy of the~~  
15 ~~statement of ownership and location has not been filed as required~~  
16 ~~by this subsection, the home continues to be treated as personal~~  
17 ~~property until the certified copy is filed]~~.

18 (h) The provisions of this chapter relating to the  
19 construction or installation of a manufactured home or to  
20 warranties for a manufactured home apply to a home regardless of  
21 whether the home is considered to be real or personal property.

22 SECTION 12. Section 1201.206(d), Occupations Code, is  
23 amended to read as follows:

24 (d) Not later than the 30th day after the date of each ~~[At a]~~  
25 subsequent sale or transfer of a ~~[the]~~ home that is considered to be  
26 personal property, the seller ~~[purchaser]~~ or transferor  
27 ~~[transferee]~~ shall provide to the department a completed

1 application [~~apply~~] for the issuance of a new statement of  
2 ownership and location.

3 SECTION 13. Section 1201.207(a), Occupations Code, is  
4 amended to read as follows:

5 (a) The department shall process any completed application  
6 for the issuance of a statement of ownership and location not later  
7 than the 15th [~~10th~~] working day after the date the application is  
8 received by the department. If the department rejects an  
9 application, the department shall provide a clear and complete  
10 explanation of the reason for the rejection and instructions on how  
11 to cure any defects, if possible.

12 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
13 is amended by adding Section 1201.2076 to read as follows:

14 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
15 PROPERTY. The department may not issue a statement of ownership and  
16 location for a manufactured home that is being converted from real  
17 property to personal property until:

18 (1) each lien on the home is released by the  
19 lienholder;

20 (2) each lienholder gives written consent, to be  
21 placed on file with the department; or

22 (3) the department has inspected the home and  
23 determined that it is habitable.

24 SECTION 15. Section 1201.209, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
27 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.

1 The department may not refuse to issue a statement of ownership and  
2 location and may not suspend or revoke a statement of ownership and  
3 location unless:

4 (1) the application for issuance of the statement of  
5 ownership and location contains a false or fraudulent statement,  
6 the applicant failed to provide information required by the  
7 director, or the applicant is not entitled to issuance of the  
8 statement of ownership and location;

9 (2) the director has reason to believe that the  
10 manufactured home is stolen or unlawfully converted, or the  
11 issuance of a statement of ownership and location would defraud the  
12 owner or a lienholder of the manufactured home;

13 (3) the director has reason to believe that the  
14 manufactured home is salvaged, and an application for the issuance  
15 of a new statement of ownership and location that indicates that the  
16 home is salvaged has not been filed;

17 (4) the required fee has not been paid;

18 (5) the state sales and use tax has not been paid in  
19 accordance with Chapter 158, Tax Code, and Section 1201.208; or

20 (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
21 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
22 ~~that section existed on the date the lien was filed,~~] and the lien  
23 has not been extinguished.

24 SECTION 16. Sections 1201.216(a) and (b), Occupations Code,  
25 are amended to read as follows:

26 (a) If the owner of a manufactured home notifies the  
27 department that the owner intends to treat the home as real property



1 or to reserve its use for a business purpose or salvage, the [The]  
2 department shall indicate on the statement of ownership and  
3 location for the [a-manufactured] home that:

4 (1) the owner of the home has elected to treat the home  
5 as real property or to reserve its use for a business purpose or  
6 salvage; and

7 (2) except as provided by Section 1201.2055(h), the  
8 department no longer considers the home to be a manufactured home  
9 for purposes of regulation under this chapter [whether the home has  
10 been sold, exchanged, or lease-purchased to a purchaser for the  
11 purchaser's business use. For a home sold, exchanged, or  
12 lease-purchased as described by this subsection, the department  
13 shall issue a new statement of ownership and location that  
14 indicates that the home is reserved for business use].

15 (b) On application and subject to Sections 1201.2076 and  
16 1201.209, the department shall [may] issue for the structure  
17 described in the application a new statement of ownership and  
18 location restoring the structure's designation as a manufactured  
19 [for-the] home only after an inspection and determination that the  
20 structure [home] is habitable as provided by Section 1201.453.  
21 [The statement must indicate that the home is no longer reserved for  
22 business use.]

23 SECTION 17. Subchapter E, Chapter 1201, Occupations Code,  
24 is amended by adding Section 1201.217 to read as follows:

25 Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
26 of real property on which a manufactured home owned by another is  
27 located may declare the home abandoned as provided by this section

1 if the home has been continuously unoccupied for at least four  
2 months and any indebtedness secured by the manufactured home is  
3 also delinquent.

4 (b) Before declaring a manufactured home abandoned, the  
5 owner of real property on which the home is located must send a  
6 notice of intent to declare the home abandoned to the owner of the  
7 home and all lienholders at the addresses listed on the home's  
8 statement of ownership and location on file with the department.  
9 Mailing of the notice by certified mail, return receipt requested,  
10 postage prepaid, to the persons required to be notified by this  
11 subsection constitutes conclusive proof of compliance with this  
12 subsection.

13 (c) On receipt of a notice of intent to declare a  
14 manufactured home abandoned, the owner of the home or a lienholder  
15 may freely enter the real property on which the home is located to  
16 remove the home.

17 (d) If the manufactured home remains on the real property  
18 for at least 45 days after the date the notice is postmarked:

19 (1) all liens on the home are extinguished; and

20 (2) the real property owner may declare the home  
21 abandoned and may apply to the department for a statement of  
22 ownership and location listing the real property owner as the owner  
23 of the manufactured home.

24 (e) A new statement of ownership and location issued by the  
25 department under this section transfers, free of any liens, if  
26 there is evidence of United States Postal Service return receipt  
27 from all lienholders, title to the manufactured home to the real

1 property owner.

2 SECTION 18. Section 1201.219(b), Occupations Code, is  
3 amended to read as follows:

4 (b) Except as provided by Subsection (a), a lien on a  
5 manufactured home is perfected only by filing with the department  
6 the notice of lien on a form provided by the department. The  
7 recordation of a lien with the department is notice to all persons  
8 that the lien exists. Except as expressly provided by Chapter 32,  
9 Tax Code, a lien recorded with the department has priority,  
10 according to the chronological order of recordation, over another  
11 lien or claim against the manufactured home.

12 SECTION 19. Section 1201.221(a), Occupations Code, is  
13 amended to read as follows:

14 (a) On written request, the department shall provide  
15 information held by the department on:

16 (1) the current ownership and location of a  
17 manufactured home; and

18 (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that  
19 home for which notice has been filed with the department.

20 SECTION 20. Sections 1201.352(c) and (d), Occupations Code,  
21 are amended to read as follows:

22 (c) Before the signing of a binding retail installment sales  
23 contract or other binding purchase agreement, the retailer must  
24 give the consumer a copy ~~[or a general description]~~ of:

25 (1) the manufacturer's warranty; ~~and~~

26 ~~[(2) the retailer's warranty.]~~

27 ~~[(d) At the time of the initial installation at the~~

1 ~~consumer's homesite, the retailer shall deliver to the consumer:~~

2 ~~[(1) the manufacturer's warranty;]~~

3 (2) the retailer's warranty;

4 (3) the warranties given by the manufacturers of  
5 appliances or equipment included with the home; and

6 (4) the name and address of the manufacturer or  
7 retailer to whom the consumer is to give notice of a warranty  
8 service request.

9 SECTION 21. Section 1201.357, Occupations Code, is amended  
10 by adding Subsection (c) to read as follows:

11 (c) If the manufacturer or retailer is unable to provide  
12 warranty service in accordance with the department order under  
13 Section 1201.356 as a result of an action of the consumer, the  
14 manufacturer or retailer must make that allegation in the written  
15 statement required by Subsection (a). The department shall  
16 investigate the allegation, and if the department determines that  
17 the allegation is credible, the department shall issue a new order  
18 specifying the date and time of the proposed corrective action. The  
19 department shall send the order to the consumer and the  
20 manufacturer or retailer, as applicable, by certified mail, return  
21 receipt requested. If the consumer refuses to comply with the  
22 department's new order, the manufacturer or retailer, as  
23 applicable:

24 (1) is discharged from the obligations imposed by the  
25 relevant department orders;

26 (2) has no liability to the consumer; and

27 (3) is not subject to an action by the department for

1 failure to provide warranty service.

2 SECTION 22. Section 1201.361, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
5 installations not covered by the retailer's warranty described by  
6 Section 1201.352 and for the installation of all used manufactured  
7 homes, the installer shall give the manufactured home owner a  
8 written warranty that the installation of the home was performed in  
9 accordance with all department standards, rules, orders, and  
10 requirements.

11 (b) The warranty must conspicuously disclose the  
12 requirement that the consumer notify the installer of any claim in  
13 writing in accordance with the terms of the warranty. Unless the  
14 warranty provides for a longer period, the installer has no  
15 obligation or liability for any defect described in a written  
16 notice received from the consumer more than two years after the date  
17 of the installation.

18 SECTION 23. Section 1201.405, Occupations Code, is amended  
19 by adding Subsection (e) to read as follows:

20 (e) In determining the amount of actual damages under this  
21 section, the director shall make an independent inquiry as to the  
22 damages actually incurred, unless the damages have been established  
23 by a contested jury trial.

24 SECTION 24. Section 1201.451(a), Occupations Code, is  
25 amended to read as follows:

26 (a) Except as otherwise provided by this subchapter, a  
27 person may not sell, exchange, or lease-purchase a used

1 manufactured home without the appropriate transfer of good and  
2 marketable title to the home [~~unless the sale, exchange, or~~  
3 ~~lease-purchase is to:~~

4 [~~(1) a purchaser for the purchaser's business use, or~~  
5 [~~(2) a rebuilder for the purpose of rebuilding a~~  
6 ~~salvaged manufactured home]~~].

7 SECTION 25. Section 1201.455, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1201.455. WARRANTY OF HABITABILITY REQUIRED. (a)  
10 Except as otherwise provided by this subchapter, a person may not  
11 sell, exchange, or lease-purchase a used manufactured home to a  
12 consumer for use as a dwelling without providing a written warranty  
13 that the home is and will remain habitable until the 60th day after  
14 the later of the installation date or the date of the purchase  
15 agreement.

16 (b) Unless, not later than the 65th [~~60th~~] day after the  
17 later of the installation date or the date of the sale, exchange, or  
18 lease-purchase agreement, the consumer notifies the seller in  
19 writing of a defect that makes the home not habitable, any  
20 obligation or liability of the seller under this subchapter is  
21 terminated. The warranty must conspicuously disclose that notice  
22 requirement to the consumer.

23 SECTION 26. The heading to Section 1201.457, Occupations  
24 Code, is amended to read as follows:

25 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
26 OR SALVAGE.

27 SECTION 27. Section 1201.457(b), Occupations Code, is

1 amended to read as follows:

2 (b) The purchaser of a used manufactured home for business  
3 use or the purchaser of a salvaged manufactured home may not sell,  
4 exchange, or lease-purchase the home for use as a dwelling or  
5 knowingly allow any person to occupy or use the home as a dwelling  
6 unless the director issues a new statement of ownership and  
7 location indicating that the home is no longer reserved for  
8 business use or salvage. On the purchaser's application to the  
9 department for issuance of a new statement of ownership and  
10 location, the department shall inspect the home and, if the  
11 department determines that the home is habitable, issue the  
12 statement of ownership and location.

13 SECTION 28. Subchapter Z, Chapter 2306, Government Code, is  
14 amended by adding Section 2306.591 to read as follows:

15 Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

16 (a) For a manufactured home to be approved for installation and use  
17 as a dwelling in a colonia:

18 (1) the home must be a HUD-code manufactured home, as  
19 defined by Section 1201.003, Occupations Code;

20 (2) the home must be habitable, as described by  
21 Section 1201.453, Occupations Code; and

22 (3) ownership of the home must be properly recorded  
23 with the manufactured housing division of the department.

24 (b) An owner of a manufactured home is not eligible to  
25 participate in a grant loan program offered by the department,  
26 including the single-family mortgage revenue bond program under  
27 Section 2306.142, unless the owner complies with Subsection (a).

1           SECTION 29. Section 1.04, Tax Code, is amended by adding  
2   Subdivision (3-a) to read as follows:

3           (3-a) Notwithstanding anything contained herein to  
4 the contrary, a manufactured home is an improvement to real  
5 property only if the owner of the home has elected to treat the  
6 manufactured home as real property pursuant to Section 1201.2055,  
7 Occupations Code, and a certified copy of the statement of  
8 ownership and location has been filed with the real property  
9 records of the county in which the home is located as provided in  
10 Section 1201.2055(d), Occupations Code.

11          SECTION 30. Section 32.014, Tax Code, is amended to read as  
12 follows:

13          Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the  
14 owner of a manufactured home has elected to treat the home as real  
15 property ~~[is listed together with the land on which the~~  
16 ~~manufactured home is located]~~ under Section 25.08, the tax lien  
17 shall be attached ~~[attaches]~~ to the land on which the manufactured  
18 home is located.

19          (b) If the owner of a manufactured home does not elect to  
20 treat the home as real property with ~~[is listed separately from]~~ the  
21 land on which the manufactured home is located, the tax lien on the  
22 manufactured home does not attach to the land on which the home is  
23 located.

24          (c) In this section, "manufactured home" has the meaning  
25 assigned by Section 1201.003, Occupations Code.

26          (d) ~~[If a manufactured home is listed together with the land~~  
27 ~~on which the manufactured home is located, a taxing unit with~~



~~jurisdiction to impose taxes on the land may place a lien on the manufactured home to secure payment of those taxes to the same extent that it can place a lien on the land. If a home is moved from its location and a new statement of ownership and location is not issued under Section 1201.207, Occupations Code, a taxing unit with jurisdiction to impose taxes on the land on which the manufactured home was located retains the right to record and enforce liens on that home to secure the payment of taxes, regardless of where the home is currently located.~~

[~~(e)~~] This section prevails over Chapter 1201, Occupations Code, to the extent of any conflict.

SECTION 31. Section 32.015(a), Tax Code, is amended to read as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien [~~filed before September 1, 2001,~~] has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 32. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to

1 read as follows:

2 (a) Except as provided by Subsection (a-1), a [A] tax lien  
3 may not be enforced against personal property transferred to a  
4 buyer in ordinary course of business as defined by Section 1.201(9)  
5 of the Business & Commerce Code for value who does not have actual  
6 notice of the existence of the lien ~~[or, if the personal property is~~  
7 ~~a manufactured home, who does not have constructive notice of the~~  
8 ~~existence of the lien]~~.

9 (a-1) A tax lien against a manufactured home may not be  
10 enforced unless it has been recorded with the Texas Department of  
11 Housing and Community Affairs as provided by Section 1201.219,  
12 Occupations Code:

13 (1) before October 1, 2005; or

14 (2) not later than six months after the end of the year  
15 for which the tax was owed.

16 (a-2) A person may not transfer title of a manufactured home  
17 until all tax liens perfected on the home have been extinguished or  
18 satisfied and released. This subsection does not apply to the sale  
19 of a manufactured home in inventory.

20 (b) A bona fide purchaser for value or the holder of a lien  
21 recorded on the manufactured home statement of ownership and  
22 location ~~[document of title]~~ is not required to pay any taxes that  
23 have not been recorded with the Texas Department of Housing and  
24 Community Affairs ~~[imposed in a tax year that begins before January~~  
25 ~~1, 2001, or penalties or interest on those taxes except for each~~  
26 ~~year for which a valid tax lien was duly filed and recorded under~~  
27 ~~Section 32.015, as that section existed on the date the lien was~~

1 ~~filed, and each year for which the owner of the manufactured home~~  
2 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
3 ~~that section existed before September 1, 2001. The effect and~~  
4 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
5 ~~imposed on a manufactured home in a tax year that begins on or after~~  
6 ~~January 1, 2001, are those established by Sections 32.01 and~~  
7 ~~32.05].~~ In this section, "manufactured home" has the meaning  
8 assigned by Section 32.015(b).

9 SECTION 33. The following laws are repealed:

10 (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
11 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
12 Occupations Code;

13 (2) Sections 32.03(c)-(j), Tax Code; and

14 (3) Section 623.093(d), Transportation Code.

15 SECTION 34. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2005.

# ADOPTED

FLOOR AMENDMENT NO. 1

15-14  
MAY 20 2005

BY:

Westmark

Lotay Shaw  
Secretary of the Senate

Amend CSHB 2438 as follows:

(1) SECTION 11 of the bill (Senate Committee Report), Section 1201.2055, Occupations Code, on page 3 line 31, between "department" and "that", insert "and the tax assessor collector".

(2) SECTION 11 of the bill (Senate Committee Report), page 3, line 35, after "department", strike "has" and insert "and the tax assessor collector have".

(3) SECTION 11 of the bill (Senate Committee Report), page 3, lines 37-43, strike Subsection (f) and substitute the following:

(f) If notice is provided under Subsection (d), the department in a timely manner shall note in its records that a real property election has been perfected. If notice is not provided as described by Subsection (d), the department and the tax assessor collector shall note in their records that a real property election has not been perfected and that the home remains personal property [in the real property records of the county in which the home is located].

(4) SECTION 11 of the bill (Senate Committee Report), page 3, line 44, after "department", strike "notes in its" and insert "and the tax assessor collector note in their".

(5) Strike SECTION 14 of the bill (Senate Committee Report), and substitute the following:

SECTION 14. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.2076 to read as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. The department may not issue a statement of ownership and location for a manufactured home that is being converted from real property to personal property until:

(1) each lien, including a tax lien, on the home is released by the lienholder;

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department; or

1                   (3) the department has inspected the home and determined that it is  
2 habitable and has notified the appropriate tax assessor collector of the conversion.

3  
4 (6)       Strike SECTION 15 of the bill (Senate Committee Report), page 4, and  
5 substitute the following:

6  
7           SECTION 15. Section 1201.208(a), Occupations Code, is amended as follows:

8           (a) The department may not issue a statement of ownership and  
9 location for a new manufactured home installed for occupancy in this state unless the  
10 state sales and use tax and applicable ad valorem taxes have ~~[have]~~ been paid.

11  
12 (7)       SECTION 17 of the bill (Senate Committee Report), page 5, line 12, between  
13 "home" and "and", insert ", the tax assessor collector of the county in which the home is  
14 located,".

15  
16 (8)       SECTION 17 of the bill (Senate Committee Report), page 5, line 20, strike  
17 "freely".

18  
19 (9)       SECTION 17 of the bill (Senate Committee Report), page 5, line 21, after  
20 "home.", insert "The home may not be moved without a tax receipt from the tax  
21 assessor collector of the county in which the home is located."

22  
23 (10)      SECTION 17 of the bill (Senate Committee Report), page 5, line 24, between  
24 "liens" and "on", insert ", except the tax lien,".

25  
26 (11)      SECTION 17 of the bill (Senate Committee Report), page 5, line 30, after  
27 "liens," insert "except the tax lien,".

28  
29 (12)      Strike SECTION 18 of the bill (Senate Committee Report), page 5, and  
30 substitute the following:

31  
32           SECTION 18. Section 1201.219 is amended by amending Subsection (d) as  
33 follows:

34           (d) The department shall print on each statement of ownership and  
35 location issued under this subchapter a notice that:

36                   (1) the statement of ownership and location does ~~[may]~~ not  
37 reflect the existence of a tax lien notice ~~[filed for the manufactured home after~~  
38 ~~the date the statement of ownership and location was issued]; and~~

(2) information about a tax lien for which notice has been filed may be obtained from the tax assessor collector of the county in which the manufactured home is located ~~[department on written request]~~."

(13) Strike SECTION 31 and SECTION 32 of the bill (Senate Committee Report), pages 7-8, and renumber the remaining sections accordingly.

(14) Strike SECTION 33 of the bill (Senate Committee Report), page 8, lines 50-55, and substitute the following:

SECTION 33. The following laws are repealed:

- (1) Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code; and
- (2) Section 623.093(f), Transportation Code.

(15) Add the following appropriately numbered Section:

SECTION \_\_. Section 32.03(j)(1), Tax Code, is amended as follows:

(j) For purposes of this section, unpaid taxes due a taxing unit include:

(1) all unpaid taxes and any penalty and interest due that taxing entity for: ~~[a tax year preceding the current tax year;]~~

(A) four years preceding the current tax year for personal property; and

(B) ten years preceding the current tax year for real property.

(16) Add the following appropriately numbered Section:

SECTION \_\_. Section 1201.212(a), Occupations Code, is amended as follows:

(a) If the ownership of a manufactured home in this state is transferred by inheritance, devise, or bequest, by bankruptcy, receivership, judicial sale, or other involuntary divestiture of ownership, or by any other operation of law, the department shall issue a new statement of ownership and location after receiving a certified copy of:

- (1) the order or bill of sale from an officer making a judicial sale;
- (2) the order appointing a temporary administrator;
- (3) the probate proceedings;
- (4) the letters testamentary or the letters of administration; ~~[or]~~
- (5) if the administration of an estate is not necessary, an affidavit by all of the heirs at law showing:

(A) that administration is not necessary; and

1 (B) the name in which the statement of ownership and  
2 location should be issued; and [-]  
3 (6) a tax certificate showing no ad valorem taxes remain due.

ADOPTED

MAY 20 2005

FLOOR AMENDMENT NO. 3

Secretary of the Senate  
BY: J. J. Ding

1 Amend C.S.H.B. No. 2438 (Senate Committee Printing) as  
2 follows:

3 (1) Between Sections 24 and 25 of the bill (page 6, between  
4 lines 50 and 51), insert the following appropriately numbered  
5 section and renumber subsequent sections accordingly:

6 SECTION \_\_\_\_ Section 1201.452(b), Occupations Code, is  
7 amended to read as follows:

8 (b) If the home does not have the appropriate seal or label,  
9 the person must:

10 (1) apply to the department for a seal; ~~and~~

11 (2) pay the fee; and

12 (3) submit to the department a copy of any written  
13 disclosure required under Section 1201.455(a).

14 (2) In Section 25 of the bill, in the heading to amended  
15 Section 1201.455, Occupations Code (page 6, line 53), between "Sec.  
16 1204.455." and "WARRANTY", insert "WRITTEN DISCLOSURE AND".

17 (3) In Section 25 of the bill, in amended Section 1201.455,  
18 Occupations Code (page 6, lines 53-59), strike Subsection (a) and  
19 substitute the following:

20 (a) Except as otherwise provided by this subchapter, a  
21 person may not sell, exchange, or lease-purchase a used  
22 manufactured home to a consumer for use as a dwelling without  
23 providing:

24 (1) a written disclosure, on a form prescribed by the  
25 department, describing in detail the condition of the home and of  
26 any appliances that are included in the home; and

27 (2) a written warranty that the home is and will remain  
28 habitable until the 60th day after the later of the installation  
29 date or the date of the purchase agreement.



1           (4) Between Sections 33 and 34 of the bill (page 8, between  
2 lines 55 and 56), insert the following appropriately numbered  
3 section and renumber subsequent sections accordingly:

4           SECTION \_\_\_\_\_. Not later than November 1, 2005, the Texas  
5 Department of Housing and Community Affairs shall prepare and make  
6 available to the public the disclosure form required by Section  
7 1201.455(a), Occupations Code, as amended by this Act.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 12, 2005

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty ( relating to the acquisition and regulation of manufactured homes.),  
**Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

### Local Government Impact

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 9, 2005**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (Relating to the acquisition and regulation of manufactured homes.),  
**As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

**Local Government Impact**

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 11, 2005**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (relating to the acquisition and regulation of manufactured homes. ),  
**Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

**Local Government Impact**

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is assumed the bill would result in additional administrative costs to collection offices relative to the

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**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 5, 2005**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (Relating to the acquisition and regulation of manufactured homes.),  
**As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

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filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

**LBB Staff:** JOB, JRO, MW, TG

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 26, 2005

Date

Honorable David Dewhurst  
President of the Senate

Honorable Tom Craddick  
Speaker of the House of Representatives

**ADOPTED**

M.L.

153 OR

133

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11

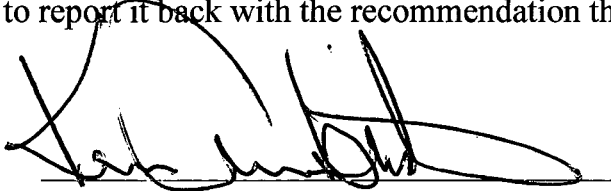
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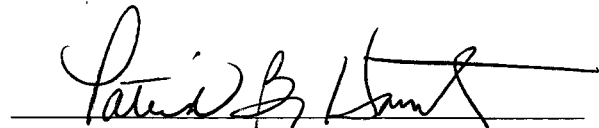
present, not vo

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2438 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Senator Kenneth Armbrister

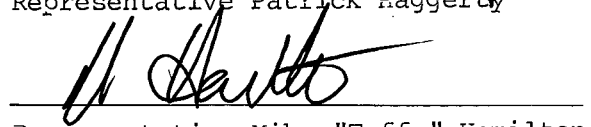


Representative Patrick Haggerty

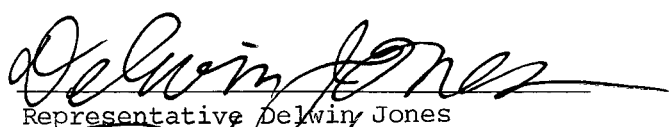
Senator Kenneth "Kim" Brimer



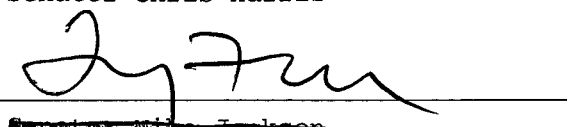
Senator Chris Harris



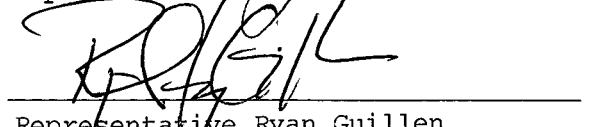
Representative Mike "Tuffy" Hamilton



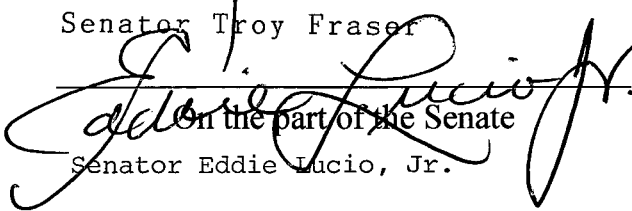
Representative Delwin Jones



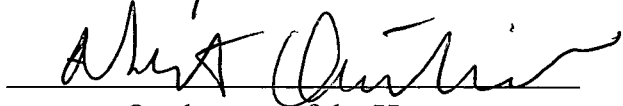
~~Senator Mike Jackson~~  
Senator Troy Fraser



Representative Ryan Guillen



On the part of the Senate  
Senator Eddie Lucio, Jr.



On the part of the House  
Representative Chente Quintanilla

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

- (1) identify the bond on file with the department in conjunction with that person's license; and
- (2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the

1 90th day after the date the salesperson's initial license is  
2 issued. To renew a salesperson's license, a salesperson [Persons]  
3 regulated under this chapter [~~and directly involved in the sale of~~  
4 ~~manufactured housing~~] must complete an additional eight hours of  
5 certification and continuing education programs for each renewal  
6 [~~each year~~]. The programs must be presented by a board-approved  
7 organization or educational institution and must include  
8 instruction in applicable [address] state and federal law,  
9 [~~applicable to all manufactured housing retailer practices and~~  
10 ~~relevant~~] consumer protection regulations, and ethical standards.

11 (g) The board shall suspend the license of a salesperson  
12 [person] regulated under this chapter who does not complete the  
13 programs as required by this section. The board shall reinstate the  
14 license on the salesperson's [person's] completion of the programs.

15 SECTION 6. Section 1201.114(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A manufacturer's, retailer's, broker's, or installer's  
18 license is valid for one year. A salesperson's license is valid for  
19 two years. A license [and] may be renewed as provided by the  
20 director. A person whose license has been suspended or revoked or  
21 whose license has expired may not engage in activities that require  
22 a license until the license has been reinstated or renewed.

23 SECTION 7. Section 1201.151(d), Occupations Code, is  
24 amended to read as follows:

25 (d) This section does not apply to:

26 (1) a deposit held in escrow in a real estate  
27 transaction; or

1           (2) money stated to be a down payment in an executed  
2 retail [~~installment~~] sales contract.

3           SECTION 8. Section 1201.159(a), Occupations Code, is  
4 amended to read as follows:

5           (a) A broker shall ensure that the seller gives the buyer  
6 the applicable disclosures and warranties that the buyer would have  
7 received if the buyer had purchased the manufactured home through a  
8 licensed retailer [~~may but is not required to be the agent of a~~  
9 ~~party involved in the sale, exchange, or lease-purchase of a~~  
10 ~~manufactured home for which a statement of ownership and location~~  
11 ~~has been issued and is outstanding~~].

12          SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
13 are amended to read as follows:

14          (a) In addition to the disclosure statement required by  
15 Section 1201.162, the department shall adopt rules creating a  
16 one-page form printed in at least 12-point type that addresses  
17 [~~addressing~~] consumer protection disclosures required in chattel  
18 mortgage transactions and shall prescribe the form for the  
19 disclosure statement. A consumer protection disclosure statement  
20 under this subsection may not contain any blank lines and must  
21 contain only [~~include~~] the following:

22           (1) a statement of the significant differences between  
23 chattel mortgages and real estate mortgages;

24           (2) an itemization of typical [~~estimated-closing~~]  
25 costs associated with a chattel mortgage purchase of a manufactured  
26 home [~~, if any~~]; and

27           (3) an example [~~estimate of the total amount~~] of

1 monthly payments in three typical chattel mortgage transactions,  
 2 including an estimate of the amount of the [+

3 [~~(A)~~] principal, [~~and~~] interest, [~~payments,~~

4 [~~(B) costs of any~~] required insurance  
 5 premium, [+] and

6 [~~(C) costs for payment of~~] ad valorem taxes[~~,~~  
 7 ~~based on the current tax rate of each taxing unit in which the~~  
 8 ~~manufactured home will be located as applied to the sales price of~~  
 9 ~~the manufactured home,~~

10 [~~(4) a statement of the roles of the retailer and any~~  
 11 ~~affiliated parties in the financing of the first retail sale, as~~  
 12 ~~defined by Section 1201.201, and the estimated compensation that~~  
 13 ~~they will receive for providing or arranging the financing, and~~

14 [~~(5) any other disclosures required by state or~~  
 15 ~~federal law, including the Real Estate Settlement Procedures Act of~~  
 16 ~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~  
 17 ~~(15 U.S.C. Section 1601 et seq.)~~].

18 (b) A retailer shall provide the consumer protection  
 19 disclosure statement to the consumer [~~at least 24 hours~~] before the  
 20 completion of the first credit application [~~installment contract is~~  
 21 ~~fully executed, as provided by Section 1201.164]~~.

22 SECTION 10. Section 1201.164(a), Occupations Code, is  
 23 amended to read as follows:

24 (a) In a chattel mortgage transaction involving an  
 25 installment contract, a retailer shall deliver to a consumer at  
 26 least 24 hours before the contract is fully executed [~~the~~  
 27 ~~disclosure statements required by this subchapter and]~~ the

1 contract, with all required information included, signed by the  
 2 retailer. The delivery of the ~~[disclosure statements and]~~  
 3 installment contract, with all required information included,  
 4 signed by the retailer constitutes a firm offer by the retailer.  
 5 The consumer may accept the offer not earlier than 24 hours after  
 6 the delivery of the contract ~~[documents]~~. If the consumer has not  
 7 accepted the offer within 72 hours after the delivery of the  
 8 contract, the retailer may withdraw the offer.

9 SECTION 11. Section 1201.2055, Occupations Code, is amended  
 10 by amending Subsection (d) and adding Subsections (e), (f), (g),  
 11 and (h) to read as follows:

12 (d) If ~~[the department issues a statement of ownership and~~  
 13 ~~location to]~~ an owner elects ~~[who has elected]~~ to treat a  
 14 manufactured home as real property, the department shall issue to  
 15 the owner a certified copy of the statement of ownership and  
 16 location that on its face reflects that the owner has elected to  
 17 treat the manufactured home as real property at the location listed  
 18 on the statement. Not later than the 60th day after the date the  
 19 department issues a certified copy of the statement of ownership  
 20 and location to the owner, the owner must:

21 (1) file the certified copy in the real property  
 22 records of the county in which the home is located; and

23 (2) notify the department and the tax  
 24 assessor-collector that the certified copy has been filed.

25 (e) A ~~[the]~~ manufactured home is not considered to be real  
 26 property until a certified copy of the statement of ownership and  
 27 location has been filed and the department and the tax



assessor-collector have been notified of the filing as provided by Subsection (d).

(f) If notice is provided under Subsection (d), the department and the tax assessor-collector in a timely manner shall note in their records that a real property election has been perfected. If notice is not provided as described by Subsection (d), the department and the tax assessor-collector shall note in their records that a real property election has not been perfected and that the home remains personal property ~~[in the real property records of the county in which the home is located]~~.

(g) After the department and the tax assessor-collector note in their records that a real property election has been perfected ~~[certified copy has been filed in the real property records of the county]~~, the home is considered to be real property for all purposes ~~[in the form of an improvement to the underlying real property on which the home is located. If a real property election has been made but a certified copy of the statement of ownership and location has not been filed as required by this subsection, the home continues to be treated as personal property until the certified copy is filed]~~.

(h) The provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

SECTION 12. Section 1201.206(d), Occupations Code, is amended to read as follows:

(d) Not later than the 30th day after the date of each ~~[At a]~~

subsequent sale or transfer of a ~~[the]~~ home that is considered to be  
personal property, the seller ~~[purchaser]~~ or transferor  
~~[transferee]~~ shall provide to the department a completed  
application ~~[apply]~~ for the issuance of a new statement of  
ownership and location.

SECTION 13. Section 1201.207(a), Occupations Code, is  
amended to read as follows:

(a) The department shall process any completed application  
for the issuance of a statement of ownership and location not later  
than the 15th ~~[10th]~~ working day after the date the application is  
received by the department. If the department rejects an  
application, the department shall provide a clear and complete  
explanation of the reason for the rejection and instructions on how  
to cure any defects, if possible.

SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
is amended by adding Section 1201.2076 to read as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
PROPERTY. The department may not issue a statement of ownership and  
location for a manufactured home that is being converted from real  
property to personal property until the department has inspected  
the home and determined that it is habitable and has notified the  
appropriate tax assessor-collector of the conversion and:

(1) each lien, including a tax lien, on the home is  
released by the lienholder; or

(2) each lienholder, including a taxing unit, gives  
written consent, to be placed on file with the department.

SECTION 15. Section 1201.209, Occupations Code, is amended

to read as follows:

Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.

The department may not refuse to issue a statement of ownership and location and may not suspend or revoke a statement of ownership and location unless:

(1) the application for issuance of the statement of ownership and location contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership and location;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership and location would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership and location that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a [local] tax lien was filed [~~before September 1, 2001,~~] and recorded under Section 1201.219 [~~32.015, Tax Code, as that section existed on the date the lien was filed,~~] and the lien has not been extinguished.

SECTION 16. Sections 1201.216(a) and (b), Occupations Code,

are amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the [The] department shall indicate on the statement of ownership and location for the [a-manufactured] home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter [whether the home has been sold, exchanged, or lease-purchased to a purchaser for the purchaser's business use. For a home sold, exchanged, or lease-purchased as described by this subsection, the department shall issue a new statement of ownership and location that indicates that the home is reserved for business use].

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall [may] issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured [for the] home only after an inspection and determination that the structure [home] is habitable as provided by Section 1201.453. [The statement must indicate that the home is no longer reserved for business use.]

SECTION 17. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.217 to read as follows:

1       Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
2 of real property on which a manufactured home owned by another is  
3 located may declare the home abandoned as provided by this section  
4 if the home has been continuously unoccupied for at least four  
5 months and any indebtedness secured by the manufactured home is  
6 also delinquent.

7       (b) Before declaring a manufactured home abandoned, the  
8 owner of real property on which the home is located must send a  
9 notice of intent to declare the home abandoned to the owner of the  
10 home and all lienholders at the addresses listed on the home's  
11 statement of ownership and location on file with the department.  
12 Mailing of the notice by certified mail, return receipt requested,  
13 postage prepaid, to the persons required to be notified by this  
14 subsection constitutes conclusive proof of compliance with this  
15 subsection.

16       (c) On receipt of a notice of intent to declare a  
17 manufactured home abandoned, the owner of the home or a lienholder  
18 may enter the real property on which the home is located to remove  
19 the home.

20       (d) If the manufactured home remains on the real property  
21 for at least 45 days after the date the notice is postmarked:

22               (1) all liens on the home are extinguished; and

23               (2) the real property owner may declare the home  
24 abandoned and may apply to the department for a statement of  
25 ownership and location listing the real property owner as the owner  
26 of the manufactured home.

27       (e) A new statement of ownership and location issued by the

1 department under this section transfers, free of any liens, if  
2 there is evidence of United States Postal Service return receipt  
3 from all lienholders, title to the manufactured home to the real  
4 property owner.

5 SECTION 18. Section 1201.219(b), Occupations Code, is  
6 amended to read as follows:

7 (b) Except as provided by Subsection (a), a lien on a  
8 manufactured home is perfected only by filing with the department  
9 the notice of lien on a form provided by the department. The  
10 recordation of a lien with the department is notice to all persons  
11 that the lien exists. Except as expressly provided by Chapter 32,  
12 Tax Code, a lien recorded with the department has priority,  
13 according to the chronological order of recordation, over another  
14 lien or claim against the manufactured home.

15 SECTION 19. Section 1201.221(a), Occupations Code, is  
16 amended to read as follows:

17 (a) On written request, the department shall provide  
18 information held by the department on:

19 (1) the current ownership and location of a  
20 manufactured home; and

21 (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that  
22 home for which notice has been filed with the department.

23 SECTION 20. Sections 1201.352(c) and (d), Occupations Code,  
24 are amended to read as follows:

25 (c) Before the signing of a binding retail installment sales  
26 contract or other binding purchase agreement, the retailer must  
27 give the consumer a copy ~~[or a general description]~~ of:

(1) the manufacturer's warranty; ~~and~~

~~[(2) the retailer's warranty.]~~

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:~~

~~[(1) the manufacturer's warranty,]~~

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer or retailer, as applicable:

(1) is discharged from the obligations imposed by the

1 relevant department orders;

2 (2) has no liability to the consumer; and

3 (3) is not subject to an action by the department for  
4 failure to provide warranty service.

5 SECTION 22. Section 1201.361, Occupations Code, is amended  
6 to read as follows:

7 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
8 installations not covered by the retailer's warranty described by  
9 Section 1201.352 and for the installation of all used manufactured  
10 homes, the installer shall give the manufactured home owner a  
11 written warranty that the installation of the home was performed in  
12 accordance with all department standards, rules, orders, and  
13 requirements.

14 (b) The warranty must conspicuously disclose the  
15 requirement that the consumer notify the installer of any claim in  
16 writing in accordance with the terms of the warranty. Unless the  
17 warranty provides for a longer period, the installer has no  
18 obligation or liability for any defect described in a written  
19 notice received from the consumer more than two years after the date  
20 of the installation.

21 SECTION 23. Section 1201.405, Occupations Code, is amended  
22 by adding Subsection (e) to read as follows:

23 (e) In determining the amount of actual damages under this  
24 section, the director shall make an independent inquiry as to the  
25 damages actually incurred, unless the damages have been established  
26 by a contested jury trial.

27 SECTION 24. Section 1201.451(a), Occupations Code, is



amended to read as follows:

(a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home without the appropriate transfer of good and marketable title to the home ~~[unless the sale, exchange, or lease-purchase is to:~~

~~[(1) a purchaser for the purchaser's business use; or  
[(2) a rebuilder for the purpose of rebuilding a salvaged manufactured home].~~

SECTION 25. Section 1201.452(b), Occupations Code, is amended to read as follows:

(b) If the home does not have the appropriate seal or label, the person must:

- (1) apply to the department for a seal; ~~and~~
- (2) pay the fee; and
- (3) submit to the department a copy of any written disclosure required under Section 1201.455(a).

SECTION 26. Section 1201.455, Occupations Code, is amended to read as follows:

Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF HABITABILITY REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing:

- (1) a written disclosure, on a form not to exceed two pages prescribed by the department, describing the condition of the home and of any appliances that are included in the home; and

1           (2) a written warranty that the home is and will remain  
2     habitable until the 60th day after the later of the installation  
3     date or the date of the purchase agreement.

4           (b) Unless, not later than the 65th [~~60th~~] day after the  
5     later of the installation date or the date of the sale, exchange, or  
6     lease-purchase agreement, the consumer notifies the seller in  
7     writing of a defect that makes the home not habitable, any  
8     obligation or liability of the seller under this subchapter is  
9     terminated. The warranty must conspicuously disclose that notice  
10    requirement to the consumer.

11          SECTION 27. The heading to Section 1201.457, Occupations  
12    Code, is amended to read as follows:

13          Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
14    OR SALVAGE.

15          SECTION 28. Section 1201.457(b), Occupations Code, is  
16    amended to read as follows:

17          (b) The purchaser of a used manufactured home for business  
18    use or the purchaser of a salvaged manufactured home may not sell,  
19    exchange, or lease-purchase the home for use as a dwelling or  
20    knowingly allow any person to occupy or use the home as a dwelling  
21    unless the director issues a new statement of ownership and  
22    location indicating that the home is no longer reserved for  
23    business use or salvage. On the purchaser's application to the  
24    department for issuance of a new statement of ownership and  
25    location, the department shall inspect the home and, if the  
26    department determines that the home is habitable, issue the  
27    statement of ownership and location.

SECTION 29. Subchapter Z, Chapter 2306, Government Code, is amended by adding Section 2306.591 to read as follows:

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

(a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

SECTION 30. Section 1.04, Tax Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 31. Section 32.014, Tax Code, is amended to read as follows:

1           Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the  
2 owner of a manufactured home has elected to treat the home as real  
3 property [~~is listed together with the land on which the~~  
4 ~~manufactured home is located~~] under Section 25.08, the tax lien  
5 shall be attached [~~attaches~~] to the land on which the manufactured  
6 home is located.

7           (b) If the owner of a manufactured home does not elect to  
8 treat the home as real property with [~~is listed separately from~~] the  
9 land on which the manufactured home is located, the tax lien on the  
10 manufactured home does not attach to the land on which the home is  
11 located.

12           (c) In this section, "manufactured home" has the meaning  
13 assigned by Section 1201.003, Occupations Code.

14           (d) [~~If a manufactured home is listed together with the land~~  
15 ~~on which the manufactured home is located, a taxing unit with~~  
16 ~~jurisdiction to impose taxes on the land may place a lien on the~~  
17 ~~manufactured home to secure payment of those taxes to the same~~  
18 ~~extent that it can place a lien on the land. If a home is moved from~~  
19 ~~its location and a new statement of ownership and location is not~~  
20 ~~issued under Section 1201.207, Occupations Code, a taxing unit with~~  
21 ~~jurisdiction to impose taxes on the land on which the manufactured~~  
22 ~~home was located retains the right to record and enforce liens on~~  
23 ~~that home to secure the payment of taxes, regardless of where the~~  
24 ~~home is currently located.~~

25           [~~(e)~~] This section prevails over Chapter 1201, Occupations  
26 Code, to the extent of any conflict.

27           SECTION 32. Section 32.015(a), Tax Code, is amended to read

as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien [~~filed before September 1, 2001,~~] has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 33. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien [~~or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien~~].

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

1           (1) before October 1, 2005; or

2           (2) not later than six months after the end of the year  
3 for which the tax was owed.

4           (a-2) A person may not transfer title of a manufactured home  
5 until all tax liens perfected on the home have been extinguished or  
6 satisfied and released. This subsection does not apply to the sale  
7 of a manufactured home in inventory.

8           (b) A bona fide purchaser for value or the holder of a lien  
9 recorded on the manufactured home statement of ownership and  
10 location ~~[document of title]~~ is not required to pay any taxes that  
11 have not been recorded with the Texas Department of Housing and  
12 Community Affairs ~~[imposed in a tax year that begins before January~~  
13 ~~1, 2001, or penalties or interest on those taxes except for each~~  
14 ~~year for which a valid tax lien was duly filed and recorded under~~  
15 ~~Section 32.015, as that section existed on the date the lien was~~  
16 ~~filed, and each year for which the owner of the manufactured home~~  
17 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
18 ~~that section existed before September 1, 2001. The effect and~~  
19 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
20 ~~imposed on a manufactured home in a tax year that begins on or after~~  
21 ~~January 1, 2001, are those established by Sections 32.01 and~~  
22 ~~32.05].~~ In this section, "manufactured home" has the meaning  
23 assigned by Section 32.015(b).

24           SECTION 34. The following laws are repealed:

25           (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
26 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
27 Occupations Code;

1           (2) Sections 32.03(c)-(j), Tax Code; and

2           (3) Section 623.093(d), Transportation Code.

3           SECTION 35. Not later than November 1, 2005, the Texas  
4 Department of Housing and Community Affairs shall prepare and make  
5 available to the public the disclosure form required by Section  
6 1201.455(a), Occupations Code, as amended by this Act.

7           SECTION 36. This Act takes effect immediately if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, this Act takes effect September 1, 2005.

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SECTION 1. Amends Section 1201.101(f), Occupations Code, to prohibit a licensed salesperson from participating in the sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application.

SECTION 2. Amends Section 1201.103(d), Occupations Code, to require an applicant for a salesperson's license to file with the director an application that is sponsored by a licensed, bonded retailer. Makes a wording change.

SECTION 3. Amends Section 1201.106(a), Occupations Code, to increase from \$20,000 to \$50,000 the bond or other security that must be filed by an applicant for an initial or renewal broker's license.

SECTION 4. Adds Section 1201.107(d), Occupations Code, to require a retailer or broker involved in the sale of certain manufactured homes to identify the bond on file with the department and provide in a sales contract that the identified bond applies to the sale.

SECTION 5. Amends Sections 1201.113(a), (b), (e), and (g), Occupations Code, relating to the certification and continuing education program requirements for holders of a salesperson's initial or renewal license.

SECTION 6. Amends Section 1201.114(a), Occupations Code, to revise the license periods for manufacturer's,

SENATE VERSION

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

CONFERENCE

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

SECTION 6. Same as House version.



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retailer's, broker's, installer's, and salesperson's licenses. Prohibits a person whose license has been suspended or revoked from engaging in licensed activities until the license has been reinstated.

SECTION 7. Amends Section 1201.151(d), Occupations Code, relating to the refund of a down payment if certain conditions are met.

SECTION 8. Amends Section 1201.159(a), Occupations Code, to require a broker of a manufactured home to ensure that the seller gives the buyer certain disclosures and warranties.

SECTION 9. Amends Sections 1201.163(a) and (b), Occupations Code, relating to consumer protection disclosure statements that are required in a chattel mortgage transaction.

SECTION 10. Amends Section 1201.164(a), Occupations Code, to authorize a retailer to withdraw the offer of an installment contract for a chattel mortgage transaction if the consumer has not accepted the offer within 72 hours after the contract is delivered.

SECTION 11. Amends Sections 1201.2055(d)-(h), Occupations Code, relating to a manufactured home owner's election to treat the home as either real property or personal property and requirements to file certain

SENATE VERSION

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Substantially the same as House version.

SECTION 10. Same as House version.

SECTION 11. Same as House version, except as follows:

CONFERENCE

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Same as Senate version.

SECTION 10. Same as House version.

SECTION 11. Same as Senate version, except as follows:

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documents with the Texas Department of Housing and Community Affairs, as follows:

(d) Requires the owner, among other provisions, to notify *the department* that a certified copy of the owner's statement of ownership and location has been filed in the real property records of the county in which the home is located.

(e) Provides that a manufactured home is not considered to be real property until a certified copy of the statement of ownership has been filed and that *the department* has been notified of the filing.

(f) Requires the department, if notified that a certified copy of the owner's statement of ownership has been filed, to note in a timely manner in its records that a real property election has been perfected. If no such notification has been made, requires *the department* to note in its records that a real property election has not been perfected and that the home remains personal property.

(g) Provides that a manufactured home is considered to be real property for all purposes after *the department* notes in its records that a real property election has been perfected.

(h) Establishes that provisions of this chapter relating to the construction or installation of a manufactured home or warranties for such a home apply regardless of whether the

SENATE VERSION

(d) Same as House version, except requires the owner to notify *the department and the tax assessor collector* of the filing. (A1)

(e) Same as House version, except requires that *the department and the tax assessor collector* have been notified of the filing. (A1)

(f) Substantially the same as House version, except requires *the department and the tax assessor collector* to note the non-perfection in their records. (A1)

(g) Same as House version, except provides that the consideration occurs after *the department and the tax assessor collector* note the perfection in their records. (A1)

(h) Same as House version.

CONFERENCE

(d) Same as Senate version.

(e) Same as Senate version.

(f) Substantially the same as Senate version.

(g) Same as Senate version.

(h) Same as House version.

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home is considered real or personal property.

SECTION 12. Amends Sections 1201.206(d) and (e), Occupations Code, relating to the sale or transfer of a manufactured home, as follows:

(d) Requires the seller or transferor of a home that is considered personal property to provide the department with a completed application for a new statement of ownership and location no later than the 30th day after the date of each subsequent sale or transfer. Exempts the subsequent sale or transfer of a home that is considered real property from regulation by the department.

(e) Provides for the passage or vesting of ownership of a manufactured home at the first retail sale or at a subsequent sale or transfer of the home on filing of a completed application.

SECTION 13. Amends Section 1201.207(a), Occupations Code, to require the department to process any completed application for the issuance of a statement of ownership and location no later than the 15th, rather than the 10th, working day after the department receives the application.

SECTION 14. Adds Section 1201.2076, Occupations Code, to prohibit the department from issuing a statement of ownership and location for a manufactured home that is being converted from real property to personal property

SENATE VERSION

SECTION 12. Same as House version, except as follows:

(d) Same as House version, except deletes the provision that exempts from regulation of the sale or transfer of a home that is considered real property.

No equivalent provision.

SECTION 13. Same as House version.

SECTION 14. Same as House version, except provides that a lien includes a tax lien and a lienholder includes a taxing unit. Adds a provision that prohibits the department from issuing the statement of conversion until the

CONFERENCE

SECTION 12. Same as Senate version, as follows:

(d) Same as Senate version.

Same as Senate version.

SECTION 13. Same as House version.

SECTION 14. Substantially the same as Senate version.

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until either each lien on the home is released by the lienholder or until each lienholder gives written consent, which is to be placed on file with the department.

No equivalent provision.

SECTION 15. Amends Section 1201.209, Occupations Code, to prohibit the department from refusing to issue or from suspending or revoking a statement of ownership and location unless a tax lien is filed and recorded under Section 1201.219, Occupations Code, relating to the perfection and effect of liens, and the lien has not been extinguished.

No equivalent provision.

SECTION 16. Amends Sections 1201.216(a) and (b), Occupations Code, relating to an application for the issuance of a statement of ownership and location for a manufactured home that indicates the home is reserved for business use or is a salvaged home.

**SENATE VERSION**

department has inspected the home and determined that it is habitable and has notified the appropriate tax assessor collector of the conversion. (A1)

SECTION 15. Amends Section 1201.208(a), Occupations Code, to prohibit the department from issuing a statement of ownership and location for a new manufactured home unless applicable ad valorem taxes, in addition to the state sales and use tax, have been paid. (A1)

No equivalent provision.

SECTION \_\_. Amends Section 1201.212(a), Occupations Code, to add a tax certificate showing ad valorem taxes remain due to the list of certified document copies the department must receive before issuing a new statement of ownership and location. (A1)

SECTION 16. Same as House version.

**CONFERENCE**

Same as House version.

SECTION 15. Same as House version.

Same as House version.

SECTION 16. Same as House version.

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SECTION 17. Adds Section 1201.217, Occupations Code, relating to an abandoned manufactured home, as follows:

(a) Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned if the home has been continuously unoccupied for at least *six* months.

(b) Requires that, before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department. Provides that mailing the notice by certified mail, return receipt requested, postage prepaid, to the required persons, constitutes conclusive proof of compliance with this provision.

(c) Authorizes the owner or a lienholder of a manufactured home, on receipt of a notice of intent to declare the home abandoned, to *freely* enter the real property on which the home is located to remove the home.

(d) Provides that, if a manufactured home remains on real property for at least 45 days after the postmark date of a notice of intent to declare the home abandoned, all liens on the home are extinguished and the real property owner may declare the home abandoned and apply to the department

SENATE VERSION

SECTION 17. Same as House version, except as follows:

(a) Same as House version, but requires the home to have been continuously unoccupied for at least *four* months *and any indebtedness secured by the manufactured home to also be delinquent*.

(b) Same as House version, except requires that the notice of intent to declare the home abandoned must also be sent to the tax assessor collector of the county in which the home is located. (A1)

(c) Same as House version, except deletes *freely* and adds a provision that prohibits the home from being moved without a tax receipt from the tax assessor collector of the county in which the home is located. (A1)

(d) Same as House version, except excludes a tax lien from the liens extinguished. (A1)

CONFERENCE

SECTION 17. Same as House version, except as follows:

(a) Same as Senate version.

(b) Same as House version.

(c) Same as House version, except deletes *freely*.

(d) Same as House version.

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for a statement of ownership and location that lists the real property owner as the owner of the home.

(e) Provides that a new statement of ownership and location issued by the department under this provision transfers, free of any liens, title to the manufactured home to the real property owner.

SECTION 18. Amends Section 1201.219(b), Occupations Code, to provide that a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department, with the exception of a lien on a manufactured home in inventory.

No equivalent provision.

SECTION 19. Amends Section 1201.221(a), Occupations Code, to require the department to provide, on written request, information held by the department on the current location, in addition to other information on a manufactured home.

**SENATE VERSION**

(e) Same as House version, except requires evidence of United States Postal Service return receipt from all lienholders and excludes a tax lien from the liens removed with the transfer of title. (A1)

No equivalent provision.

SECTION 18. Amends Section 1201.219(d), Occupations Code, to require the department to print on each statement of ownership and location a notice that the statement does not, rather than may not, reflect the existence of a tax lien notice and that information for which notice has been filed may be obtained from the tax assessor collector of the county in which the manufactured home is located, rather than from the department on written request. (A1)

SECTION 19. Substantially the same as House version.

**CONFERENCE**

(e) Substantially the same as Senate version.

SECTION 18. Same as House version.

Same as House version.

SECTION 19. Same as Senate version.

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SECTION 20. Amends Sections 1201.352(c) and (d), Occupations Code, relating to the documents a retailer must provide to a consumer before the signing of a binding retail installment sales contract or similar agreement.

SECTION 21. Adds Section 1201.357(c), Occupations Code, relating to an allegation that a manufacturer or retailer of a manufactured home failed to provide warranty service as a result of an action of the consumer.

SECTION 22. Amends Section 1201.361, Occupations Code, to require a warranty for a manufactured home to conspicuously disclose to the consumer certain notification required by the installer and to exempt the installer from obligation or liability for certain defects.

SECTION 23. Adds Section 1201.405(e), Occupations Code, relating to the manufactured homeowners' recovery trust fund. Requires the director to make an independent inquiry as to the damages actually incurred by a consumer unless the damages have been established by a contested jury trial.

SECTION 24. Amends Section 1201.451(a), Occupations Code, to remove certain exemptions from a provision that requires the transfer of good and marketable title upon the sale, exchange, or lease-purchase of a used manufactured home.

**SENATE VERSION**

SECTION 20. Same as House version.

SECTION 21. Same as House version.

SECTION 22. Same as House version.

SECTION 23. Same as House version.

SECTION 24. Same as House version.

**CONFERENCE**

SECTION 20. Same as House version.

SECTION 21. Same as House version.

SECTION 22. Same as House version.

SECTION 23. Same as House version.

SECTION 24. Same as House version.

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No equivalent provision.

SECTION 25. Amends Section 1201.455, Occupations Code, to prohibit the sale, exchange, or lease-purchase of a used manufactured home to a consumer for use as a dwelling without providing a written warranty that the home not only is but will remain habitable for a specified period, terminates the warranty unless certain conditions are met, and, if negotiations for the agreement are conducted primarily in a language other than English, requires that the warranty and a related disclosure be provided to the consumer in that language.

SECTION 26. Changes the heading of Section 1201.457, Occupations Code, to Habitability: Change To or From Business Use or Salvage.

SECTION 27. Amends Section 1201.457(b), Occupations Code, to extend to salvaged manufactured homes provisions relating to the habitability of manufactured homes for business use. Among other provisions, prohibits the purchaser of a manufactured home for business use or a salvaged manufactured home from allowing any person to occupy or use the home as a dwelling unless certain conditions are met.

SENATE VERSION

SECTION \_\_. Amends Section 1201.452(b), Occupations Code, to add a requirement that a person submit to the department a copy of any written disclosure relating to a used or salvaged manufactured home if the home does not have the appropriate seal or label. (A2)

SECTION 25. Same as House version, except adds a provision that prohibits such sale, exchange, or lease-purchase without providing a written disclosure, on a form prescribed by the department, describing in detail the condition of the home and of any appliances that are included in the home. Deletes the provision regarding negotiations and documents in a language other than English. Makes a conforming change to the section heading. (A2)

SECTION 26. Same as House version.

SECTION 27. Same as House version, except prohibits the purchaser from *knowingly* allowing any person to occupy or use such a home as a dwelling.

CONFERENCE

SECTION 25. Same as Senate version.

SECTION 26. Substantially the same as Senate version, except adds a requirement that the form not exceed two pages.

SECTION 27. Same as House version.

SECTION 28. Same as Senate version.



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SECTION 28. Adds Section 2306.591, Government Code, to provide requirements relating to manufactured homes installed in colonias.

No equivalent provision.

No equivalent provision.

SECTION 29. Amends Section 32.015(a), Tax Code, to remove language restricting a requirement that a taxing unit issue a tax certificate showing that no taxes are due or a tax paid receipt to payments on a valid tax lien that is filed before September 1, 2001.

SECTION 30. Amends Sections 32.03(a) and (b) and adds (a-1) and (a-2), Tax Code, to prohibit the enforcement of a personal property tax lien against a manufactured home or

**SENATE VERSION**

SECTION 28. Same as House version.

SECTION 29. Adds Section 1.04(3-a), Tax Code, to provide that a manufactured home, notwithstanding any provision to the contrary, is an improvement to real property only if the owner has elected to treat the home as real property pursuant to Occupations Code provisions and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located.

SECTION 30. Amends Section 32.014, Tax Code, to provide for the attachment of a tax lien to the land on which a manufactured home is located based on whether or not the owner has elected to treat the home as real property, rather than on whether the home is listed together with the land.

No equivalent provision. (A1)

No equivalent provision.

**CONFERENCE**

SECTION 29. Same as House version.

SECTION 30. Same as Senate version.

SECTION 31. Same as Senate version.

SECTION 32. Same as House version.

SECTION 33. Same as House version.

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the transfer of its title, with certain exceptions, unless specific requirements have been met. Exempts a purchaser or lienholder from the payment of any taxes not recorded with the department, rather than only of taxes filed in certain tax years.

No equivalent provision.

SECTION 31. Repeals Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code; Sections 32.014(d) and 32.03(c)-(j), Tax Code; and Section 623.093(d), Transportation Code.

No equivalent provision.

SECTION 32. Effective date.

SENATE VERSION

SECTION 32. Amends Section 32.03(j), Tax Code, to provide that unpaid taxes due a taxing unit include all unpaid taxes and any penalty and interest due the taxing entity for 4 years preceding the current tax year for personal property and for 10 years preceding the current tax year for real property, rather than for the tax year preceding the current tax year for either type of property. (A1)

SECTION 33. Same as House version, except does not repeal the Tax Code sections. (A1)

SECTION \_\_. Requires the Texas Department of Housing and Community Affairs, no later than November 1, 2005, to prepare and make available to the public the disclosure form required by Section 1201.455(a), Occupations Code, as amended by this act. (A2)

SECTION 34. Same as House version.

CONFERENCE

Same as House version.

SECTION 34. Same as House version, except does not repeal Section 32.014(d), Tax Code.

SECTION 35. Same as Senate version.

SECTION 36. Same as House version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 28, 2005**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Tom Craddick, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2438** by Haggerty (Relating to the acquisition and regulation of manufactured homes. ),  
**Conference Committee Report**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend certain sections of the Occupations Code and the Tax Code related to manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to increase the term from one year to two years for a manufactured housing salesperson license. The bill would require the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA-MHD) to create a one-page disclosure statement to provide information on financing terms, taxes, and typical costs associated with the purchase of a manufactured home. The bill would expand the recordation of liens on manufactured homes with TDHCA-MHD, including tax liens currently recorded with the counties, and provide that a lien is perfected only by filing with TDHCA-MHD. The bill would require TDHCA-MHD to investigate and document the failure of a manufacturer or retailer to perform warranty work due to an alleged action by a consumer. The bill would require the Director of TDHCA-MHD to conduct an independent inquiry related to actual damages subject to reimbursement from the Manufactured Homeowners Recovery Fund, unless the damages have been determined by a contested jury trial.

The bill would amend the Tax Code to specify that a manufactured home Statement of Ownership and Location (SOL) on file with TDHCA-MHD reflecting the owner's election as real property is a prerequisite to the home and land being taxed as a single unit. The bill would require a taxing unit to record with TDHCA-MHD a tax lien on a manufactured home and specify that the lien could not be enforced unless it has been recorded with TDHCA-MHD before October 1, 2005, or not later than six months after the end of the year for which the tax was owed. The bill would prohibit the transfer of title for a manufactured home until all tax liens perfected on the home have been satisfied and released. The bill would repeal language in the Transportation Code requiring the payment of property taxes before a manufactured home can be legally transported out of the taxing unit's jurisdiction.

Based on the analysis of the Texas Department of Housing and Community Affairs, it is assumed any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. For the purposes of this analysis, it is assumed TDHCA-MHD would stagger the biennial renewals of salesperson licenses and adjust fees as necessary to cover the cost of agency operations and minimize any possible impact on state revenues.

The bill would take effect on September 1, 2005.

**Local Government Impact**

It is assumed the provisions of the bill could result in a loss of an undetermined amount of revenue to units of local government that would vary by entity. Under the proposed language, some currently valid tax liens would not be enforceable and tax foreclosure proceedings would not occur. It is

assumed the bill would result in additional administrative costs to collection offices relative to the filing and recording of individual property tax liens with the Texas Department of Housing and Community Affairs.

**Source Agencies:** 332 Department of Housing and Community Affairs, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JRO, MW, TG

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

RECEIVED  
SECRETARY OF SENATE

May 20, 2005

5 MAY 27 P6:20

Date

Honorable David Dewhurst  
President of the Senate

Honorable Tom Craddick  
Speaker of the House of Representatives

**ADOPTED**

31-0  
MAY 28 2005

*Letty Spaul*  
Secretary of the Senate

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on RD 2430 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

*[Signature]*  
Senator Kenneth Ambrister

*[Signature]*  
Representative Patrick Haggerty

*[Signature]*  
Senator Kenneth "Kin" Bricker

*[Signature]*  
Representative Huho "Puffy" Hamilton

*Chris Harris*  
Senator Chris Harris

*[Signature]*  
Representative Melvin Jones

*[Signature]*  
Senator Troy Frasier

*[Signature]*  
Representative Lynn Cullen

*[Signature]*  
On the part of the Senate  
Senator Edilio Lucio, Jr.

*[Signature]*  
On the part of the House  
Representative Chento Quintanilla

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

*Filed* MAY 27 2005 6:00pm.

CONFERENCE COMMITTEE REPORT

H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license ~~[is a license holder]~~. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides ~~[providing]~~ any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

- (1) identify the bond on file with the department in conjunction with that person's license; and
- (2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the

90th day after the date the salesperson's initial license is issued. To renew a salesperson's license, a salesperson ~~[Persons]~~ regulated under this chapter ~~[and directly involved in the sale of manufactured housing]~~ must complete an additional eight hours of certification and continuing education programs for each renewal ~~[each year]~~. The programs must be presented by a board-approved organization or educational institution and must include instruction in applicable ~~[address]~~ state and federal law, ~~[applicable to all manufactured housing retailer practices and relevant]~~ consumer protection regulations, and ethical standards.

(g) The board shall suspend the license of a salesperson ~~[person]~~ regulated under this chapter who does not complete the programs as required by this section. The board shall reinstate the license on the salesperson's ~~[person's]~~ completion of the programs.

SECTION 6. Section 1201.114(a), Occupations Code, is amended to read as follows:

(a) A manufacturer's, retailer's, broker's, or installer's license is valid for one year. A salesperson's license is valid for two years. A license ~~[and]~~ may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.

SECTION 7. Section 1201.151(d), Occupations Code, is amended to read as follows:

(d) This section does not apply to:

(1) a deposit held in escrow in a real estate transaction; or



1           (2) money stated to be a down payment in an executed  
2 retail [~~installment~~] sales contract.

3           SECTION 8. Section 1201.159(a), Occupations Code, is  
4 amended to read as follows:

5           (a) A broker shall ensure that the seller gives the buyer  
6 the applicable disclosures and warranties that the buyer would have  
7 received if the buyer had purchased the manufactured home through a  
8 licensed retailer [~~may but is not required to be the agent of a~~  
9 ~~party involved in the sale, exchange, or lease-purchase of a~~  
10 ~~manufactured home for which a statement of ownership and location~~  
11 ~~has been issued and is outstanding~~].

12          SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
13 are amended to read as follows:

14          (a) In addition to the disclosure statement required by  
15 Section 1201.162, the department shall adopt rules creating a  
16 one-page form printed in at least 12-point type that addresses  
17 [~~addressing~~] consumer protection disclosures required in chattel  
18 mortgage transactions and shall prescribe the form for the  
19 disclosure statement. A consumer protection disclosure statement  
20 under this subsection may not contain any blank lines and must  
21 contain only [~~include~~] the following:

22               (1) a statement of the significant differences between  
23 chattel mortgages and real estate mortgages;

24               (2) an itemization of typical [~~estimated-closing~~]  
25 costs associated with a chattel mortgage purchase of a manufactured  
26 home [~~, if any~~]; and

27               (3) an example [~~estimate of the total amount~~] of

monthly payments in three typical chattel mortgage transactions,  
including an estimate of the amount of the [+

[~~(A)~~] principal, [~~and~~] interest, [~~payments,~~  
[~~(B)~~ costs of any] required insurance  
premium, [+] and

[~~(C)~~ costs for payment of] ad valorem taxes[~~,~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home,~~

[~~(4)~~ a statement of the roles of the retailer and any  
~~affiliated parties in the financing of the first retail sale, as~~  
~~defined by Section 1201.201, and the estimated compensation that~~  
~~they will receive for providing or arranging the financing, and~~

[~~(5)~~ any other disclosures required by state or  
~~federal law, including the Real Estate Settlement Procedures Act of~~  
~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~  
~~(15 U.S.C. Section 1601 et seq.)].~~

(b) A retailer shall provide the consumer protection  
disclosure statement to the consumer [~~at least 24 hours~~] before the  
completion of the first credit application [~~installment contract is~~  
~~fully executed, as provided by Section 1201.164].~~

SECTION 10. Section 1201.164(a), Occupations Code, is  
amended to read as follows:

(a) In a chattel mortgage transaction involving an  
installment contract, a retailer shall deliver to a consumer at  
least 24 hours before the contract is fully executed [~~the~~  
~~disclosure statements required by this subchapter and]~~ the

1 contract, with all required information included, signed by the  
2 retailer. The delivery of the ~~[disclosure statements and]~~  
3 installment contract, with all required information included,  
4 signed by the retailer constitutes a firm offer by the retailer.  
5 The consumer may accept the offer not earlier than 24 hours after  
6 the delivery of the contract [documents]. If the consumer has not  
7 accepted the offer within 72 hours after the delivery of the  
8 contract, the retailer may withdraw the offer.

9 SECTION 11. Section 1201.2055, Occupations Code, is amended  
10 by amending Subsection (d) and adding Subsections (e), (f), (g),  
11 and (h) to read as follows:

12 (d) If ~~[the department issues a statement of ownership and~~  
13 ~~location to]~~ an owner elects ~~[who has elected]~~ to treat a  
14 manufactured home as real property, the department shall issue to  
15 the owner a certified copy of the statement of ownership and  
16 location that on its face reflects that the owner has elected to  
17 treat the manufactured home as real property at the location listed  
18 on the statement. Not later than the 60th day after the date the  
19 department issues a certified copy of the statement of ownership  
20 and location to the owner, the owner must:

21 (1) file the certified copy in the real property  
22 records of the county in which the home is located; and

23 (2) notify the department and the tax  
24 assessor-collector that the certified copy has been filed.

25 (e) A [the] manufactured home is not considered to be real  
26 property until a certified copy of the statement of ownership and  
27 location has been filed and the department and the tax

assessor-collector have been notified of the filing as provided by Subsection (d).

(f) If notice is provided under Subsection (d), the department and the tax assessor-collector in a timely manner shall note in their records that a real property election has been perfected. If notice is not provided as described by Subsection (d), the department and the tax assessor-collector shall note in their records that a real property election has not been perfected and that the home remains personal property [in the real property records of the county in which the home is located].

(g) After the department and the tax assessor-collector note in their records that a real property election has been perfected [certified copy has been filed in the real property records of the county], the home is considered to be real property for all purposes [in the form of an improvement to the underlying real property on which the home is located. If a real property election has been made but a certified copy of the statement of ownership and location has not been filed as required by this subsection, the home continues to be treated as personal property until the certified copy is filed].

(h) The provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

SECTION 12. Section 1201.206(d), Occupations Code, is amended to read as follows:

(d) Not later than the 30th day after the date of each [At a]

1 subsequent sale or transfer of a [the] home that is considered to be  
2 personal property, the seller [~~purchaser~~] or transferor  
3 [~~transferee~~] shall provide to the department a completed  
4 application [~~apply~~] for the issuance of a new statement of  
5 ownership and location.

6 SECTION 13. Section 1201.207(a), Occupations Code, is  
7 amended to read as follows:

8 (a) The department shall process any completed application  
9 for the issuance of a statement of ownership and location not later  
10 than the 15th [~~10th~~] working day after the date the application is  
11 received by the department. If the department rejects an  
12 application, the department shall provide a clear and complete  
13 explanation of the reason for the rejection and instructions on how  
14 to cure any defects, if possible.

15 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
16 is amended by adding Section 1201.2076 to read as follows:

17 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
18 PROPERTY. The department may not issue a statement of ownership and  
19 location for a manufactured home that is being converted from real  
20 property to personal property until the department has inspected  
21 the home and determined that it is habitable and has notified the  
22 appropriate tax assessor-collector of the conversion and:

23 (1) each lien, including a tax lien, on the home is  
24 released by the lienholder; or

25 (2) each lienholder, including a taxing unit, gives  
26 written consent, to be placed on file with the department.

27 SECTION 15. Section 1201.209, Occupations Code, is amended

to read as follows:

Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.

The department may not refuse to issue a statement of ownership and location and may not suspend or revoke a statement of ownership and location unless:

(1) the application for issuance of the statement of ownership and location contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership and location;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership and location would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership and location that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a ~~[local]~~ tax lien was filed ~~[before September 1, 2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as that section existed on the date the lien was filed,~~] and the lien has not been extinguished.

SECTION 16. Sections 1201.216(a) and (b), Occupations Code,

are amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the [The] department shall indicate on the statement of ownership and location for the [a-manufactured] home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter [whether the home has been sold, exchanged, or lease-purchased to a purchaser for the purchaser's business use. For a home sold, exchanged, or lease-purchased as described by this subsection, the department shall issue a new statement of ownership and location that indicates that the home is reserved for business use].

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall [may] issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured [for the] home only after an inspection and determination that the structure [home] is habitable as provided by Section 1201.453. [The statement must indicate that the home is no longer reserved for business use.]

SECTION 17. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.217 to read as follows:

1       Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
2 of real property on which a manufactured home owned by another is  
3 located may declare the home abandoned as provided by this section  
4 if the home has been continuously unoccupied for at least four  
5 months and any indebtedness secured by the manufactured home is  
6 also delinquent.

7       (b) Before declaring a manufactured home abandoned, the  
8 owner of real property on which the home is located must send a  
9 notice of intent to declare the home abandoned to the owner of the  
10 home and all lienholders at the addresses listed on the home's  
11 statement of ownership and location on file with the department.  
12 Mailing of the notice by certified mail, return receipt requested,  
13 postage prepaid, to the persons required to be notified by this  
14 subsection constitutes conclusive proof of compliance with this  
15 subsection.

16       (c) On receipt of a notice of intent to declare a  
17 manufactured home abandoned, the owner of the home or a lienholder  
18 may enter the real property on which the home is located to remove  
19 the home.

20       (d) If the manufactured home remains on the real property  
21 for at least 45 days after the date the notice is postmarked:

22               (1) all liens on the home are extinguished; and

23               (2) the real property owner may declare the home  
24 abandoned and may apply to the department for a statement of  
25 ownership and location listing the real property owner as the owner  
26 of the manufactured home.

27       (e) A new statement of ownership and location issued by the



1 department under this section transfers, free of any liens, if  
2 there is evidence of United States Postal Service return receipt  
3 from all lienholders, title to the manufactured home to the real  
4 property owner.

5 SECTION 18. Section 1201.219(b), Occupations Code, is  
6 amended to read as follows:

7 (b) Except as provided by Subsection (a), a lien on a  
8 manufactured home is perfected only by filing with the department  
9 the notice of lien on a form provided by the department. The  
10 recordation of a lien with the department is notice to all persons  
11 that the lien exists. Except as expressly provided by Chapter 32,  
12 Tax Code, a lien recorded with the department has priority,  
13 according to the chronological order of recordation, over another  
14 lien or claim against the manufactured home.

15 SECTION 19. Section 1201.221(a), Occupations Code, is  
16 amended to read as follows:

17 (a) On written request, the department shall provide  
18 information held by the department on:

19 (1) the current ownership and location of a  
20 manufactured home; and

21 (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that  
22 home for which notice has been filed with the department.

23 SECTION 20. Sections 1201.352(c) and (d), Occupations Code,  
24 are amended to read as follows:

25 (c) Before the signing of a binding retail installment sales  
26 contract or other binding purchase agreement, the retailer must  
27 give the consumer a copy ~~[or a general description]~~ of:

1 (1) the manufacturer's warranty; ~~and~~

2 ~~[(2) the retailer's warranty.]~~

3 ~~[(d) At the time of the initial installation at the~~  
4 ~~consumer's homesite, the retailer shall deliver to the consumer:]~~

5 ~~[(1) the manufacturer's warranty,]~~

6 (2) the retailer's warranty;

7 (3) the warranties given by the manufacturers of  
8 appliances or equipment included with the home; and

9 (4) the name and address of the manufacturer or  
10 retailer to whom the consumer is to give notice of a warranty  
11 service request.

12 SECTION 21. Section 1201.357, Occupations Code, is amended  
13 by adding Subsection (c) to read as follows:

14 (c) If the manufacturer or retailer is unable to provide  
15 warranty service in accordance with the department order under  
16 Section 1201.356 as a result of an action of the consumer, the  
17 manufacturer or retailer must make that allegation in the written  
18 statement required by Subsection (a). The department shall  
19 investigate the allegation, and if the department determines that  
20 the allegation is credible, the department shall issue a new order  
21 specifying the date and time of the proposed corrective action. The  
22 department shall send the order to the consumer and the  
23 manufacturer or retailer, as applicable, by certified mail, return  
24 receipt requested. If the consumer refuses to comply with the  
25 department's new order, the manufacturer or retailer, as  
26 applicable:

27 (1) is discharged from the obligations imposed by the

1 relevant department orders;

2 (2) has no liability to the consumer; and

3 (3) is not subject to an action by the department for  
4 failure to provide warranty service.

5 SECTION 22. Section 1201.361, Occupations Code, is amended  
6 to read as follows:

7 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
8 installations not covered by the retailer's warranty described by  
9 Section 1201.352 and for the installation of all used manufactured  
10 homes, the installer shall give the manufactured home owner a  
11 written warranty that the installation of the home was performed in  
12 accordance with all department standards, rules, orders, and  
13 requirements.

14 (b) The warranty must conspicuously disclose the  
15 requirement that the consumer notify the installer of any claim in  
16 writing in accordance with the terms of the warranty. Unless the  
17 warranty provides for a longer period, the installer has no  
18 obligation or liability for any defect described in a written  
19 notice received from the consumer more than two years after the date  
20 of the installation.

21 SECTION 23. Section 1201.405, Occupations Code, is amended  
22 by adding Subsection (e) to read as follows:

23 (e) In determining the amount of actual damages under this  
24 section, the director shall make an independent inquiry as to the  
25 damages actually incurred, unless the damages have been established  
26 by a contested jury trial.

27 SECTION 24. Section 1201.451(a), Occupations Code, is

amended to read as follows:

(a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home without the appropriate transfer of good and marketable title to the home ~~[unless the sale, exchange, or lease-purchase is to:~~

~~[(1) a purchaser for the purchaser's business use, or  
[(2) a rebuilder for the purpose of rebuilding a  
salvaged manufactured home].~~

SECTION 25. Section 1201.452(b), Occupations Code, is amended to read as follows:

(b) If the home does not have the appropriate seal or label, the person must:

(1) apply to the department for a seal; ~~and~~  
(2) pay the fee; and  
(3) submit to the department a copy of any written disclosure required under Section 1201.455(a).

SECTION 26. Section 1201.455, Occupations Code, is amended to read as follows:

Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF HABITABILITY REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing:

(1) a written disclosure, on a form not to exceed two pages prescribed by the department, describing the condition of the home and of any appliances that are included in the home; and

1           (2) a written warranty that the home is and will remain  
2     habitable until the 60th day after the later of the installation  
3     date or the date of the purchase agreement.

4           (b) Unless, not later than the 65th [~~60th~~] day after the  
5     later of the installation date or the date of the sale, exchange, or  
6     lease-purchase agreement, the consumer notifies the seller in  
7     writing of a defect that makes the home not habitable, any  
8     obligation or liability of the seller under this subchapter is  
9     terminated. The warranty must conspicuously disclose that notice  
10    requirement to the consumer.

11          SECTION 27. The heading to Section 1201.457, Occupations  
12    Code, is amended to read as follows:

13          Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
14    OR SALVAGE.

15          SECTION 28. Section 1201.457(b), Occupations Code, is  
16    amended to read as follows:

17          (b) The purchaser of a used manufactured home for business  
18    use or the purchaser of a salvaged manufactured home may not sell,  
19    exchange, or lease-purchase the home for use as a dwelling or  
20    knowingly allow any person to occupy or use the home as a dwelling  
21    unless the director issues a new statement of ownership and  
22    location indicating that the home is no longer reserved for  
23    business use or salvage. On the purchaser's application to the  
24    department for issuance of a new statement of ownership and  
25    location, the department shall inspect the home and, if the  
26    department determines that the home is habitable, issue the  
27    statement of ownership and location.

SECTION 29. Subchapter Z, Chapter 2306, Government Code, is amended by adding Section 2306.591 to read as follows:

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

(a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

SECTION 30. Section 1.04, Tax Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 31. Section 32.014, Tax Code, is amended to read as follows:

1           Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the  
2 owner of a manufactured home has elected to treat the home as real  
3 property [~~is listed together with the land on which the~~  
4 ~~manufactured home is located~~] under Section 25.08, the tax lien  
5 shall be attached [~~attaches~~] to the land on which the manufactured  
6 home is located.

7           (b) If the owner of a manufactured home does not elect to  
8 treat the home as real property with [~~is listed separately from~~] the  
9 land on which the manufactured home is located, the tax lien on the  
10 manufactured home does not attach to the land on which the home is  
11 located.

12           (c) In this section, "manufactured home" has the meaning  
13 assigned by Section 1201.003, Occupations Code.

14           (d) [~~If a manufactured home is listed together with the land~~  
15 ~~on which the manufactured home is located, a taxing unit with~~  
16 ~~jurisdiction to impose taxes on the land may place a lien on the~~  
17 ~~manufactured home to secure payment of those taxes to the same~~  
18 ~~extent that it can place a lien on the land. If a home is moved from~~  
19 ~~its location and a new statement of ownership and location is not~~  
20 ~~issued under Section 1201.207, Occupations Code, a taxing unit with~~  
21 ~~jurisdiction to impose taxes on the land on which the manufactured~~  
22 ~~home was located retains the right to record and enforce liens on~~  
23 ~~that home to secure the payment of taxes, regardless of where the~~  
24 ~~home is currently located.~~

25           [~~(e)~~] This section prevails over Chapter 1201, Occupations  
26 Code, to the extent of any conflict.

27           SECTION 32. Section 32.015(a), Tax Code, is amended to read

as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien ~~[filed before September 1, 2001,]~~ has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 33. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien ~~[or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien]~~.

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:



1           (1) before October 1, 2005; or  
2           (2) not later than six months after the end of the year  
3 for which the tax was owed.

4           (a-2) A person may not transfer title of a manufactured home  
5 until all tax liens perfected on the home have been extinguished or  
6 satisfied and released. This subsection does not apply to the sale  
7 of a manufactured home in inventory.

8           (b) A bona fide purchaser for value or the holder of a lien  
9 recorded on the manufactured home statement of ownership and  
10 location [~~document of title~~] is not required to pay any taxes that  
11 have not been recorded with the Texas Department of Housing and  
12 Community Affairs [~~imposed in a tax year that begins before January~~  
13 ~~1, 2001, or penalties or interest on those taxes except for each~~  
14 ~~year for which a valid tax lien was duly filed and recorded under~~  
15 ~~Section 32.015, as that section existed on the date the lien was~~  
16 ~~filed, and each year for which the owner of the manufactured home~~  
17 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
18 ~~that section existed before September 1, 2001. The effect and~~  
19 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
20 ~~imposed on a manufactured home in a tax year that begins on or after~~  
21 ~~January 1, 2001, are those established by Sections 32.01 and~~  
22 ~~32.05]. In this section, "manufactured home" has the meaning~~  
23 assigned by Section 32.015(b).

24           SECTION 34. The following laws are repealed:

25           (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
26 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
27 Occupations Code;

1           (2) Sections 32.03(c)-(j), Tax Code; and

2           (3) Section 623.093(d), Transportation Code.

3           SECTION 35. Not later than November 1, 2005, the Texas  
4 Department of Housing and Community Affairs shall prepare and make  
5 available to the public the disclosure form required by Section  
6 1201.455(a), Occupations Code, as amended by this Act.

7           SECTION 36. This Act takes effect immediately if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, this Act takes effect September 1, 2005.

**House Bill 2438**  
**Conference Committee Report**  
**Section-by-Section Analysis**

**HOUSE VERSION**

SECTION 1. Amends Section 1201.101(f), Occupations Code, to prohibit a licensed salesperson from participating in the sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application.

SECTION 2. Amends Section 1201.103(d), Occupations Code, to require an applicant for a salesperson's license to file with the director an application that is sponsored by a licensed, bonded retailer. Makes a wording change.

SECTION 3. Amends Section 1201.106(a), Occupations Code, to increase from \$20,000 to \$50,000 the bond or other security that must be filed by an applicant for an initial or renewal broker's license.

SECTION 4. Adds Section 1201.107(d), Occupations Code, to require a retailer or broker involved in the sale of certain manufactured homes to identify the bond on file with the department and provide in a sales contract that the identified bond applies to the sale.

SECTION 5. Amends Sections 1201.113(a), (b), (e), and (g), Occupations Code, relating to the certification and continuing education program requirements for holders of a salesperson's initial or renewal license.

SECTION 6. Amends Section 1201.114(a), Occupations Code, to revise the license periods for manufacturer's,

**SENATE VERSION**

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

**CONFERENCE**

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

**House Bill 2438**  
**Conference Committee Report**  
**Section-by-Section Analysis**

**HOUSE VERSION**

retailer's, broker's, installer's, and salesperson's licenses. Prohibits a person whose license has been suspended or revoked from engaging in licensed activities until the license has been reinstated.

SECTION 7. Amends Section 1201.151(d), Occupations Code, relating to the refund of a down payment if certain conditions are met.

SECTION 8. Amends Section 1201.159(a), Occupations Code, to require a broker of a manufactured home to ensure that the seller gives the buyer certain disclosures and warranties.

SECTION 9. Amends Sections 1201.163(a) and (b), Occupations Code, relating to consumer protection disclosure statements that are required in a chattel mortgage transaction.

SECTION 10. Amends Section 1201.164(a), Occupations Code, to authorize a retailer to withdraw the offer of an installment contract for a chattel mortgage transaction if the consumer has not accepted the offer within 72 hours after the contract is delivered.

SECTION 11. Amends Sections 1201.2055(d)-(h), Occupations Code, relating to a manufactured home owner's election to treat the home as either real property or personal property and requirements to file certain

**SENATE VERSION**

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Substantially the same as House version.

SECTION 10. Same as House version.

SECTION 11. Same as House version, except as follows:

**CONFERENCE**

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Same as Senate version.

SECTION 10. Same as House version.

SECTION 11. Same as Senate version, except as follows:

**House Bill 2438**  
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HOUSE VERSION

documents with the Texas Department of Housing and Community Affairs, as follows:

(d) Requires the owner, among other provisions, to notify *the department* that a certified copy of the owner's statement of ownership and location has been filed in the real property records of the county in which the home is located.

(e) Provides that a manufactured home is not considered to be real property until a certified copy of the statement of ownership has been filed and that *the department* has been notified of the filing.

(f) Requires the department, if notified that a certified copy of the owner's statement of ownership has been filed, to note in a timely manner in its records that a real property election has been perfected. If no such notification has been made, requires *the department* to note in its records that a real property election has not been perfected and that the home remains personal property.

(g) Provides that a manufactured home is considered to be real property for all purposes after *the department* notes in its records that a real property election has been perfected.

(h) Establishes that provisions of this chapter relating to the construction or installation of a manufactured home or warranties for such a home apply regardless of whether the

SENATE VERSION

(d) Same as House version, except requires the owner to notify *the department and the tax assessor collector* of the filing. (A1)

(e) Same as House version, except requires that *the department and the tax assessor collector* have been notified of the filing. (A1)

(f) Substantially the same as House version, except requires *the department and the tax assessor collector* to note the non-perfection in their records. (A1)

(g) Same as House version, except provides that the consideration occurs after *the department and the tax assessor collector* note the perfection in their records. (A1)

(h) Same as House version.

CONFERENCE

(d) Same as Senate version.

(e) Same as Senate version.

(f) Substantially the same as Senate version.

(g) Same as Senate version.

(h) Same as House version.

**House Bill 2438**  
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**HOUSE VERSION**

home is considered real or personal property.

SECTION 12. Amends Sections 1201.206(d) and (e), Occupations Code, relating to the sale or transfer of a manufactured home, as follows:

(d) Requires the seller or transferor of a home that is considered personal property to provide the department with a completed application for a new statement of ownership and location no later than the 30th day after the date of each subsequent sale or transfer. Exempts the subsequent sale or transfer of a home that is considered real property from regulation by the department.

(e) Provides for the passage or vesting of ownership of a manufactured home at the first retail sale or at a subsequent sale or transfer of the home on filing of a completed application.

SECTION 13. Amends Section 1201.207(a), Occupations Code, to require the department to process any completed application for the issuance of a statement of ownership and location no later than the 15th, rather than the 10th, working day after the department receives the application.

SECTION 14. Adds Section 1201.2076, Occupations Code, to prohibit the department from issuing a statement of ownership and location for a manufactured home that is being converted from real property to personal property

**SENATE VERSION**

SECTION 12. Same as House version, except as follows:

(d) Same as House version, except deletes the provision that exempts from regulation of the sale or transfer of a home that is considered real property.

No equivalent provision.

SECTION 13. Same as House version.

SECTION 14. Same as House version, except provides that a lien includes a tax lien and a lienholder includes a taxing unit. Adds a provision that prohibits the department from issuing the statement of conversion until the

**CONFERENCE**

SECTION 12. Same as Senate version, as follows:

(d) Same as Senate version.

Same as Senate version.

SECTION 13. Same as House version.

SECTION 14. Substantially the same as Senate version.

**House Bill 2438**  
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**HOUSE VERSION**

until either each lien on the home is released by the lienholder or until each lienholder gives written consent, which is to be placed on file with the department.

No equivalent provision.

SECTION 15. Amends Section 1201.209, Occupations Code, to prohibit the department from refusing to issue or from suspending or revoking a statement of ownership and location unless a tax lien is filed and recorded under Section 1201.219, Occupations Code, relating to the perfection and effect of liens, and the lien has not been extinguished.

No equivalent provision.

SECTION 16. Amends Sections 1201.216(a) and (b), Occupations Code, relating to an application for the issuance of a statement of ownership and location for a manufactured home that indicates the home is reserved for business use or is a salvaged home.

**SENATE VERSION**

department has inspected the home and determined that it is habitable and has notified the appropriate tax assessor collector of the conversion. (A1)

SECTION 15. Amends Section 1201.208(a), Occupations Code, to prohibit the department from issuing a statement of ownership and location for a new manufactured home unless applicable ad valorem taxes, in addition to the state sales and use tax, have been paid. (A1)

No equivalent provision.

SECTION \_\_. Amends Section 1201.212(a), Occupations Code, to add a tax certificate showing ad valorem taxes remain due to the list of certified document copies the department must receive before issuing a new statement of ownership and location. (A1)

SECTION 16. Same as House version.

**CONFERENCE**

Same as House version.

SECTION 15. Same as House version.

Same as House version.

SECTION 16. Same as House version.

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HOUSE VERSION

SECTION 17. Adds Section 1201.217, Occupations Code, relating to an abandoned manufactured home, as follows:

(a) Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned if the home has been continuously unoccupied for at least *six* months.

(b) Requires that, before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department. Provides that mailing the notice by certified mail, return receipt requested, postage prepaid, to the required persons, constitutes conclusive proof of compliance with this provision.

(c) Authorizes the owner or a lienholder of a manufactured home, on receipt of a notice of intent to declare the home abandoned, to *freely* enter the real property on which the home is located to remove the home.

(d) Provides that, if a manufactured home remains on real property for at least 45 days after the postmark date of a notice of intent to declare the home abandoned, all liens on the home are extinguished and the real property owner may declare the home abandoned and apply to the department

SENATE VERSION

SECTION 17. Same as House version, except as follows:

(a) Same as House version, but requires the home to have been continuously unoccupied for at least *four* months *and any indebtedness secured by the manufactured home to also be delinquent*.

(b) Same as House version, except requires that the notice of intent to declare the home abandoned must also be sent to the tax assessor collector of the county in which the home is located. (A1)

(c) Same as House version, except deletes *freely* and adds a provision that prohibits the home from being moved without a tax receipt from the tax assessor collector of the county in which the home is located. (A1)

(d) Same as House version, except excludes a tax lien from the liens extinguished. (A1)

CONFERENCE

SECTION 17. Same as House version, except as follows:

(a) Same as Senate version.

(b) Same as House version.

(c) Same as House version, except deletes *freely*.

(d) Same as House version.



**House Bill 2438**  
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**HOUSE VERSION**

for a statement of ownership and location that lists the real property owner as the owner of the home.

(e) Provides that a new statement of ownership and location issued by the department under this provision transfers, free of any liens, title to the manufactured home to the real property owner.

SECTION 18. Amends Section 1201.219(b), Occupations Code, to provide that a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department, with the exception of a lien on a manufactured home in inventory.

No equivalent provision.

SECTION 19. Amends Section 1201.221(a), Occupations Code, to require the department to provide, on written request, information held by the department on the current location, in addition to other information on a manufactured home.

**SENATE VERSION**

(e) Same as House version, except requires evidence of United States Postal Service return receipt from all lienholders and excludes a tax lien from the liens removed with the transfer of title. (A1)

No equivalent provision.

SECTION 18. Amends Section 1201.219(d), Occupations Code, to require the department to print on each statement of ownership and location a notice that the statement does not, rather than may not, reflect the existence of a tax lien notice and that information for which notice has been filed may be obtained from the tax assessor collector of the county in which the manufactured home is located, rather than from the department on written request. (A1)

SECTION 19. Substantially the same as House version.

**CONFERENCE**

(e) Substantially the same as Senate version.

SECTION 18. Same as House version.

Same as House version.

SECTION 19. Same as Senate version.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 20. Amends Sections 1201.352(c) and (d), Occupations Code, relating to the documents a retailer must provide to a consumer before the signing of a binding retail installment sales contract or similar agreement.	SECTION 20. Same as House version.	SECTION 20. Same as House version.
SECTION 21. Adds Section 1201.357(c), Occupations Code, relating to an allegation that a manufacturer or retailer of a manufactured home failed to provide warranty service as a result of an action of the consumer.	SECTION 21. Same as House version.	SECTION 21. Same as House version.
SECTION 22. Amends Section 1201.361, Occupations Code, to require a warranty for a manufactured home to conspicuously disclose to the consumer certain notification required by the installer and to exempt the installer from obligation or liability for certain defects.	SECTION 22. Same as House version.	SECTION 22. Same as House version.
SECTION 23. Adds Section 1201.405(e), Occupations Code, relating to the manufactured homeowners' recovery trust fund. Requires the director to make an independent inquiry as to the damages actually incurred by a consumer unless the damages have been established by a contested jury trial.	SECTION 23. Same as House version.	SECTION 23. Same as House version.
SECTION 24. Amends Section 1201.451(a), Occupations Code, to remove certain exemptions from a provision that requires the transfer of good and marketable title upon the sale, exchange, or lease-purchase of a used manufactured home.	SECTION 24. Same as House version.	SECTION 24. Same as House version.

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HOUSE VERSION

No equivalent provision.

SECTION 25. Amends Section 1201.455, Occupations Code, to prohibit the sale, exchange, or lease-purchase of a used manufactured home to a consumer for use as a dwelling without providing a written warranty that the home not only is but will remain habitable for a specified period, terminates the warranty unless certain conditions are met, and, if negotiations for the agreement are conducted primarily in a language other than English, requires that the warranty and a related disclosure be provided to the consumer in that language.

SECTION 26. Changes the heading of Section 1201.457, Occupations Code, to Habitability: Change To or From Business Use or Salvage.

SECTION 27. Amends Section 1201.457(b), Occupations Code, to extend to salvaged manufactured homes provisions relating to the habitability of manufactured homes for business use. Among other provisions, prohibits the purchaser of a manufactured home for business use or a salvaged manufactured home from allowing any person to occupy or use the home as a dwelling unless certain conditions are met.

SENATE VERSION

SECTION \_\_. Amends Section 1201.452(b), Occupations Code, to add a requirement that a person submit to the department a copy of any written disclosure relating to a used or salvaged manufactured home if the home does not have the appropriate seal or label. (A2)

SECTION 25. Same as House version, except adds a provision that prohibits such sale, exchange, or lease-purchase without providing a written disclosure, on a form prescribed by the department, describing in detail the condition of the home and of any appliances that are included in the home. Deletes the provision regarding negotiations and documents in a language other than English. Makes a conforming change to the section heading. (A2)

SECTION 26. Same as House version.

SECTION 27. Same as House version, except prohibits the purchaser from *knowingly* allowing any person to occupy or use such a home as a dwelling.

CONFERENCE

SECTION 25. Same as Senate version.

SECTION 26. Substantially the same as Senate version, except adds a requirement that the form not exceed two pages.

SECTION 27. Same as House version.

SECTION 28. Same as Senate version.

**House Bill 2438**  
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HOUSE VERSION

SECTION 28. Adds Section 2306.591, Government Code, to provide requirements relating to manufactured homes installed in colonias.

No equivalent provision.

No equivalent provision.

SECTION 29. Amends Section 32.015(a), Tax Code, to remove language restricting a requirement that a taxing unit issue a tax certificate showing that no taxes are due or a tax paid receipt to payments on a valid tax lien that is filed before September 1, 2001.

SECTION 30. Amends Sections 32.03(a) and (b) and adds (a-1) and (a-2), Tax Code, to prohibit the enforcement of a personal property tax lien against a manufactured home or

SENATE VERSION

SECTION 28. Same as House version.

SECTION 29. Adds Section 1.04(3-a), Tax Code, to provide that a manufactured home, notwithstanding any provision to the contrary, is an improvement to real property only if the owner has elected to treat the home as real property pursuant to Occupations Code provisions and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located.

SECTION 30. Amends Section 32.014, Tax Code, to provide for the attachment of a tax lien to the land on which a manufactured home is located based on whether or not the owner has elected to treat the home as real property, rather than on whether the home is listed together with the land.

No equivalent provision. (A1)

No equivalent provision.

CONFERENCE

SECTION 29. Same as House version.

SECTION 30. Same as Senate version.

SECTION 31. Same as Senate version.

SECTION 32. Same as House version.

SECTION 33. Same as House version.

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HOUSE VERSION

the transfer of its title, with certain exceptions, unless specific requirements have been met. Exempts a purchaser or lienholder from the payment of any taxes not recorded with the department, rather than only of taxes filed in certain tax years.

No equivalent provision.

SECTION 31. Repeals Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code; Sections 32.014(d) and 32.03(c)-(j), Tax Code; and Section 623.093(d), Transportation Code.

No equivalent provision.

SECTION 32. Effective date.

SENATE VERSION

SECTION 32. Amends Section 32.03(j), Tax Code, to provide that unpaid taxes due a taxing unit include all unpaid taxes and any penalty and interest due the taxing entity for 4 years preceding the current tax year for personal property and for 10 years preceding the current tax year for real property, rather than for the tax year preceding the current tax year for either type of property. (A1)

SECTION 33. Same as House version, except does not repeal the Tax Code sections. (A1)

SECTION \_\_. Requires the Texas Department of Housing and Community Affairs, no later than November 1, 2005, to prepare and make available to the public the disclosure form required by Section 1201.455(a), Occupations Code, as amended by this act. (A2)

SECTION 34. Same as House version.

CONFERENCE

Same as House version.

SECTION 34. Same as House version, except does not repeal Section 32.014(d), Tax Code.

SECTION 35. Same as Senate version.

SECTION 36. Same as House version.

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 26, 2005

Date

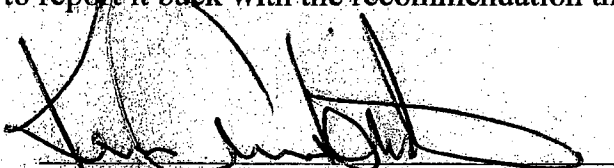
05 MAY 27 PM 7:06  
HOUSE OF REPRESENTATIVES

Honorable David Dewhurst  
President of the Senate

Honorable Tom Craddick  
Speaker of the House of Representatives

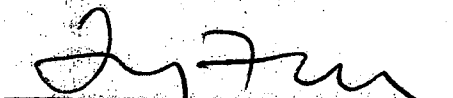
Sirs:

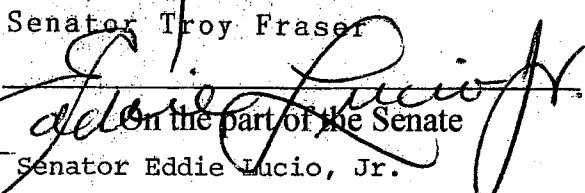
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2438 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

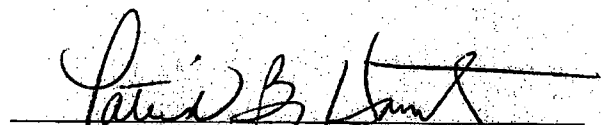
  
\_\_\_\_\_  
Senator Kenneth Armbrister

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Senator Kenneth "Kim" Brimer

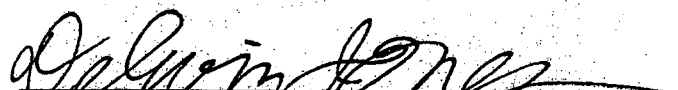
  
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Senator Chris Harris

  
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~~Senator Troy Fraser~~  
Senator Troy Fraser

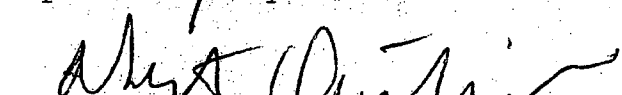
  
\_\_\_\_\_  
On the part of the Senate  
Senator Eddie Lucio, Jr.

  
\_\_\_\_\_  
Representative Patrick Haggerty

  
\_\_\_\_\_  
Representative Mike "Tuffy" Hamilton

  
\_\_\_\_\_  
Representative Delwin Jones

  
\_\_\_\_\_  
Representative Ryan Guillen

  
\_\_\_\_\_  
On the part of the House  
Representative Chente Quintanilla

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

- (1) identify the bond on file with the department in conjunction with that person's license; and
- (2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the



1 90th day after the date the salesperson's initial license is  
 2 issued. To renew a salesperson's license, a salesperson ~~[Persons]~~  
 3 regulated under this chapter ~~[and directly involved in the sale of~~  
 4 ~~manufactured housing]~~ must complete an additional eight hours of  
 5 certification and continuing education programs for each renewal  
 6 [each year]. The programs must be presented by a board-approved  
 7 organization or educational institution and must include  
 8 instruction in applicable ~~[address]~~ state and federal law,  
 9 ~~[applicable to all manufactured housing retailer practices and~~  
 10 ~~relevant]~~ consumer protection regulations, and ethical standards.

11 (g) The board shall suspend the license of a salesperson  
 12 ~~[person]~~ regulated under this chapter who does not complete the  
 13 programs as required by this section. The board shall reinstate the  
 14 license on the salesperson's ~~[person's]~~ completion of the programs.

15 SECTION 6. Section 1201.114(a), Occupations Code, is  
 16 amended to read as follows:

17 (a) A manufacturer's, retailer's, broker's, or installer's  
 18 license is valid for one year. A salesperson's license is valid for  
 19 two years. A license ~~[and]~~ may be renewed as provided by the  
 20 director. A person whose license has been suspended or revoked or  
 21 whose license has expired may not engage in activities that require  
 22 a license until the license has been reinstated or renewed.

23 SECTION 7. Section 1201.151(d), Occupations Code, is  
 24 amended to read as follows:

25 (d) This section does not apply to:

26 (1) a deposit held in escrow in a real estate  
 27 transaction; or

1 (2) money stated to be a down payment in an executed  
2 retail [~~installment~~] sales contract.

3 SECTION 8. Section 1201.159(a), Occupations Code, is  
4 amended to read as follows:

5 (a) A broker shall ensure that the seller gives the buyer  
6 the applicable disclosures and warranties that the buyer would have  
7 received if the buyer had purchased the manufactured home through a  
8 licensed retailer [~~may but is not required to be the agent of a~~  
9 ~~party involved in the sale, exchange, or lease-purchase of a~~  
10 ~~manufactured home for which a statement of ownership and location~~  
11 ~~has been issued and is outstanding~~].

12 SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
13 are amended to read as follows:

14 (a) In addition to the disclosure statement required by  
15 Section 1201.162, the department shall adopt rules creating a  
16 one-page form printed in at least 12-point type that addresses  
17 [addressing] consumer protection disclosures required in chattel  
18 mortgage transactions and shall prescribe the form for the  
19 disclosure statement. A consumer protection disclosure statement  
20 under this subsection may not contain any blank lines and must  
21 contain only [~~include~~] the following:

22 (1) a statement of the significant differences between  
23 chattel mortgages and real estate mortgages;

24 (2) an itemization of typical [~~estimated closing~~]  
25 costs associated with a chattel mortgage purchase of a manufactured  
26 home [~~, if any~~]; and

27 (3) an example [~~estimate of the total amount~~] of

monthly payments in three typical chattel mortgage transactions,  
including an estimate of the amount of the [+

[~~(A)~~] principal, [~~and~~] interest, [~~payments,~~  
[~~(B)~~ costs of any] required insurance  
premium, [+] and

[~~(C)~~ costs for payment of] ad valorem taxes[~~,~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home,~~

[~~(4)~~ a statement of the roles of the retailer and any  
~~affiliated parties in the financing of the first retail sale, as~~  
~~defined by Section 1201.201, and the estimated compensation that~~  
~~they will receive for providing or arranging the financing, and~~

[~~(5)~~ any other disclosures required by state or  
~~federal law, including the Real Estate Settlement Procedures Act of~~  
~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~  
~~(15 U.S.C. Section 1601 et seq.)].~~

(b) A retailer shall provide the consumer protection  
disclosure statement to the consumer [~~at least 24 hours~~] before the  
completion of the first credit application [~~installment contract is~~  
~~fully executed, as provided by Section 1201.164].~~

SECTION 10. Section 1201.164(a), Occupations Code, is  
amended to read as follows:

(a) In a chattel mortgage transaction involving an  
installment contract, a retailer shall deliver to a consumer at  
least 24 hours before the contract is fully executed [~~the~~  
~~disclosure statements required by this subchapter and]~~ the

1 contract, with all required information included, signed by the  
2 retailer. The delivery of the ~~[disclosure statements and]~~  
3 installment contract, with all required information included,  
4 signed by the retailer constitutes a firm offer by the retailer.  
5 The consumer may accept the offer not earlier than 24 hours after  
6 the delivery of the contract [documents]. If the consumer has not  
7 accepted the offer within 72 hours after the delivery of the  
8 contract, the retailer may withdraw the offer.

9 SECTION 11. Section 1201.2055, Occupations Code, is amended  
10 by amending Subsection (d) and adding Subsections (e), (f), (g),  
11 and (h) to read as follows:

12 (d) If ~~[the department issues a statement of ownership and~~  
13 ~~location to]~~ an owner elects ~~[who has elected]~~ to treat a  
14 manufactured home as real property, the department shall issue to  
15 the owner a certified copy of the statement of ownership and  
16 location that on its face reflects that the owner has elected to  
17 treat the manufactured home as real property at the location listed  
18 on the statement. Not later than the 60th day after the date the  
19 department issues a certified copy of the statement of ownership  
20 and location to the owner, the owner must:

21 (1) file the certified copy in the real property  
22 records of the county in which the home is located; and

23 (2) notify the department and the tax  
24 assessor-collector that the certified copy has been filed.

25 (e) A ~~[the]~~ manufactured home is not considered to be real  
26 property until a certified copy of the statement of ownership and  
27 location has been filed and the department and the tax

1 assessor-collector have been notified of the filing as provided by  
2 Subsection (d).

3 (f) If notice is provided under Subsection (d), the  
4 department and the tax assessor-collector in a timely manner shall  
5 note in their records that a real property election has been  
6 perfected. If notice is not provided as described by Subsection  
7 (d), the department and the tax assessor-collector shall note in  
8 their records that a real property election has not been perfected  
9 and that the home remains personal property [in the real property  
10 records of the county in which the home is located].

11 (g) After the department and the tax assessor-collector  
12 note in their records that a real property election has been  
13 perfected [certified copy has been filed in the real property  
14 records of the county], the home is considered to be real property  
15 for all purposes [in the form of an improvement to the underlying  
16 real property on which the home is located. If a real property  
17 election has been made but a certified copy of the statement of  
18 ownership and location has not been filed as required by this  
19 subsection, the home continues to be treated as personal property  
20 until the certified copy is filed].

21 (h) The provisions of this chapter relating to the  
22 construction or installation of a manufactured home or to  
23 warranties for a manufactured home apply to a home regardless of  
24 whether the home is considered to be real or personal property.

25 SECTION 12. Section 1201.206(d), Occupations Code, is  
26 amended to read as follows:

27 (d) Not later than the 30th day after the date of each [At-a]

subsequent sale or transfer of a ~~the~~ home that is considered to be  
personal property, the seller ~~[purchaser]~~ or transferor  
~~[transferee]~~ shall provide to the department a completed  
application ~~[apply]~~ for the issuance of a new statement of  
ownership and location.

SECTION 13. Section 1201.207(a), Occupations Code, is  
amended to read as follows:

(a) The department shall process any completed application  
for the issuance of a statement of ownership and location not later  
than the 15th ~~10th~~ working day after the date the application is  
received by the department. If the department rejects an  
application, the department shall provide a clear and complete  
explanation of the reason for the rejection and instructions on how  
to cure any defects, if possible.

SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
is amended by adding Section 1201.2076 to read as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
PROPERTY. The department may not issue a statement of ownership and  
location for a manufactured home that is being converted from real  
property to personal property until the department has inspected  
the home and determined that it is habitable and has notified the  
appropriate tax assessor-collector of the conversion and:

(1) each lien, including a tax lien, on the home is  
released by the lienholder; or

(2) each lienholder, including a taxing unit, gives  
written consent, to be placed on file with the department.

SECTION 15. Section 1201.209, Occupations Code, is amended

1 to read as follows:

2 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
3 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.

4 The department may not refuse to issue a statement of ownership and  
5 location and may not suspend or revoke a statement of ownership and  
6 location unless:

7 (1) the application for issuance of the statement of  
8 ownership and location contains a false or fraudulent statement,  
9 the applicant failed to provide information required by the  
10 director, or the applicant is not entitled to issuance of the  
11 statement of ownership and location;

12 (2) the director has reason to believe that the  
13 manufactured home is stolen or unlawfully converted, or the  
14 issuance of a statement of ownership and location would defraud the  
15 owner or a lienholder of the manufactured home;

16 (3) the director has reason to believe that the  
17 manufactured home is salvaged, and an application for the issuance  
18 of a new statement of ownership and location that indicates that the  
19 home is salvaged has not been filed;

20 (4) the required fee has not been paid;

21 (5) the state sales and use tax has not been paid in  
22 accordance with Chapter 158, Tax Code, and Section 1201.208; or

23 (6) a ~~[local]~~ tax lien was filed ~~[before September 1,~~  
24 ~~2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as~~  
25 ~~that section existed on the date the lien was filed,~~] and the lien  
26 has not been extinguished.

27 SECTION 16. Sections 1201.216(a) and (b), Occupations Code,

are amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the [The] department shall indicate on the statement of ownership and location for the [a-manufactured] home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter [whether the home has been sold, exchanged, or lease-purchased to a purchaser for the purchaser's business use. For a home sold, exchanged, or lease-purchased as described by this subsection, the department shall issue a new statement of ownership and location that indicates that the home is reserved for business use].

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall [may] issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured [for the] home only after an inspection and determination that the structure [home] is habitable as provided by Section 1201.453. [The statement must indicate that the home is no longer reserved for business use.]

SECTION 17. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.217 to read as follows:



1       Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
2 of real property on which a manufactured home owned by another is  
3 located may declare the home abandoned as provided by this section  
4 if the home has been continuously unoccupied for at least four  
5 months and any indebtedness secured by the manufactured home is  
6 also delinquent.

7       (b) Before declaring a manufactured home abandoned, the  
8 owner of real property on which the home is located must send a  
9 notice of intent to declare the home abandoned to the owner of the  
10 home and all lienholders at the addresses listed on the home's  
11 statement of ownership and location on file with the department.  
12 Mailing of the notice by certified mail, return receipt requested,  
13 postage prepaid, to the persons required to be notified by this  
14 subsection constitutes conclusive proof of compliance with this  
15 subsection.

16       (c) On receipt of a notice of intent to declare a  
17 manufactured home abandoned, the owner of the home or a lienholder  
18 may enter the real property on which the home is located to remove  
19 the home.

20       (d) If the manufactured home remains on the real property  
21 for at least 45 days after the date the notice is postmarked:

22             (1) all liens on the home are extinguished; and

23             (2) the real property owner may declare the home  
24 abandoned and may apply to the department for a statement of  
25 ownership and location listing the real property owner as the owner  
26 of the manufactured home.

27       (e) A new statement of ownership and location issued by the

1 department under this section transfers, free of any liens, if  
2 there is evidence of United States Postal Service return receipt  
3 from all lienholders, title to the manufactured home to the real  
4 property owner.

5 SECTION 18. Section 1201.219(b), Occupations Code, is  
6 amended to read as follows:

7 (b) Except as provided by Subsection (a), a lien on a  
8 manufactured home is perfected only by filing with the department  
9 the notice of lien on a form provided by the department. The  
10 recordation of a lien with the department is notice to all persons  
11 that the lien exists. Except as expressly provided by Chapter 32,  
12 Tax Code, a lien recorded with the department has priority,  
13 according to the chronological order of recordation, over another  
14 lien or claim against the manufactured home.

15 SECTION 19. Section 1201.221(a), Occupations Code, is  
16 amended to read as follows:

17 (a) On written request, the department shall provide  
18 information held by the department on:

19 (1) the current ownership and location of a  
20 manufactured home; and

21 (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that  
22 home for which notice has been filed with the department.

23 SECTION 20. Sections 1201.352(c) and (d), Occupations Code,  
24 are amended to read as follows:

25 (c) Before the signing of a binding retail installment sales  
26 contract or other binding purchase agreement, the retailer must  
27 give the consumer a copy ~~[or a general description]~~ of:

1 (1) the manufacturer's warranty; ~~and~~

2 ~~[(2) the retailer's warranty.]~~

3 ~~[(d) At the time of the initial installation at the~~  
4 ~~consumer's homesite, the retailer shall deliver to the consumer:~~

5 ~~[(1) the manufacturer's warranty,]~~

6 (2) the retailer's warranty;

7 (3) the warranties given by the manufacturers of  
8 appliances or equipment included with the home; and

9 (4) the name and address of the manufacturer or  
10 retailer to whom the consumer is to give notice of a warranty  
11 service request.

12 SECTION 21. Section 1201.357, Occupations Code, is amended  
13 by adding Subsection (c) to read as follows:

14 (c) If the manufacturer or retailer is unable to provide  
15 warranty service in accordance with the department order under  
16 Section 1201.356 as a result of an action of the consumer, the  
17 manufacturer or retailer must make that allegation in the written  
18 statement required by Subsection (a). The department shall  
19 investigate the allegation, and if the department determines that  
20 the allegation is credible, the department shall issue a new order  
21 specifying the date and time of the proposed corrective action. The  
22 department shall send the order to the consumer and the  
23 manufacturer or retailer, as applicable, by certified mail, return  
24 receipt requested. If the consumer refuses to comply with the  
25 department's new order, the manufacturer or retailer, as  
26 applicable:

27 (1) is discharged from the obligations imposed by the

1 relevant department orders;

2 (2) has no liability to the consumer; and

3 (3) is not subject to an action by the department for  
4 failure to provide warranty service.

5 SECTION 22. Section 1201.361, Occupations Code, is amended  
6 to read as follows:

7 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
8 installations not covered by the retailer's warranty described by  
9 Section 1201.352 and for the installation of all used manufactured  
10 homes, the installer shall give the manufactured home owner a  
11 written warranty that the installation of the home was performed in  
12 accordance with all department standards, rules, orders, and  
13 requirements.

14 (b) The warranty must conspicuously disclose the  
15 requirement that the consumer notify the installer of any claim in  
16 writing in accordance with the terms of the warranty. Unless the  
17 warranty provides for a longer period, the installer has no  
18 obligation or liability for any defect described in a written  
19 notice received from the consumer more than two years after the date  
20 of the installation.

21 SECTION 23. Section 1201.405, Occupations Code, is amended  
22 by adding Subsection (e) to read as follows:

23 (e) In determining the amount of actual damages under this  
24 section, the director shall make an independent inquiry as to the  
25 damages actually incurred, unless the damages have been established  
26 by a contested jury trial.

27 SECTION 24. Section 1201.451(a), Occupations Code, is

1 amended to read as follows:

2 (a) Except as otherwise provided by this subchapter, a  
3 person may not sell, exchange, or lease-purchase a used  
4 manufactured home without the appropriate transfer of good and  
5 marketable title to the home [~~unless the sale, exchange, or~~  
6 ~~lease-purchase is to:~~

7 [~~(1) a purchaser for the purchaser's business use, or~~  
8 [~~(2) a rebuilder for the purpose of rebuilding a~~  
9 ~~salvaged manufactured home]~~.

10 SECTION 25. Section 1201.452(b), Occupations Code, is  
11 amended to read as follows:

12 (b) If the home does not have the appropriate seal or label,  
13 the person must:

- 14 (1) apply to the department for a seal; [and]  
15 (2) pay the fee; and  
16 (3) submit to the department a copy of any written  
17 disclosure required under Section 1201.455(a).

18 SECTION 26. Section 1201.455, Occupations Code, is amended  
19 to read as follows:

20 Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF  
21 HABITABILITY REQUIRED. (a) Except as otherwise provided by this  
22 subchapter, a person may not sell, exchange, or lease-purchase a  
23 used manufactured home to a consumer for use as a dwelling without  
24 providing:

- 25 (1) a written disclosure, on a form not to exceed two  
26 pages prescribed by the department, describing the condition of the  
27 home and of any appliances that are included in the home; and

1           (2) a written warranty that the home is and will remain  
2 habitable until the 60th day after the later of the installation  
3 date or the date of the purchase agreement.

4           (b) Unless, not later than the 65th [~~60th~~] day after the  
5 later of the installation date or the date of the sale, exchange, or  
6 lease-purchase agreement, the consumer notifies the seller in  
7 writing of a defect that makes the home not habitable, any  
8 obligation or liability of the seller under this subchapter is  
9 terminated. The warranty must conspicuously disclose that notice  
10 requirement to the consumer.

11           SECTION 27. The heading to Section 1201.457, Occupations  
12 Code, is amended to read as follows:

13           Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
14 OR SALVAGE.

15           SECTION 28. Section 1201.457(b), Occupations Code, is  
16 amended to read as follows:

17           (b) The purchaser of a used manufactured home for business  
18 use or the purchaser of a salvaged manufactured home may not sell,  
19 exchange, or lease-purchase the home for use as a dwelling or  
20 knowingly allow any person to occupy or use the home as a dwelling  
21 unless the director issues a new statement of ownership and  
22 location indicating that the home is no longer reserved for  
23 business use or salvage. On the purchaser's application to the  
24 department for issuance of a new statement of ownership and  
25 location, the department shall inspect the home and, if the  
26 department determines that the home is habitable, issue the  
27 statement of ownership and location.

SECTION 29. Subchapter Z, Chapter 2306, Government Code, is amended by adding Section 2306.591 to read as follows:

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

(a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

SECTION 30. Section 1.04, Tax Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 31. Section 32.014, Tax Code, is amended to read as follows:

1           Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the  
2 owner of a manufactured home has elected to treat the home as real  
3 property [~~is listed together with the land on which the~~  
4 ~~manufactured home is located~~] under Section 25.08, the tax lien  
5 shall be attached [~~attaches~~] to the land on which the manufactured  
6 home is located.

7           (b) If the owner of a manufactured home does not elect to  
8 treat the home as real property with [~~is listed separately from~~] the  
9 land on which the manufactured home is located, the tax lien on the  
10 manufactured home does not attach to the land on which the home is  
11 located.

12           (c) In this section, "manufactured home" has the meaning  
13 assigned by Section 1201.003, Occupations Code.

14           (d) [~~If a manufactured home is listed together with the land~~  
15 ~~on which the manufactured home is located, a taxing unit with~~  
16 ~~jurisdiction to impose taxes on the land may place a lien on the~~  
17 ~~manufactured home to secure payment of those taxes to the same~~  
18 ~~extent that it can place a lien on the land. If a home is moved from~~  
19 ~~its location and a new statement of ownership and location is not~~  
20 ~~issued under Section 1201.207, Occupations Code, a taxing unit with~~  
21 ~~jurisdiction to impose taxes on the land on which the manufactured~~  
22 ~~home was located retains the right to record and enforce liens on~~  
23 ~~that home to secure the payment of taxes, regardless of where the~~  
24 ~~home is currently located.~~

25           [~~(e)~~] This section prevails over Chapter 1201, Occupations  
26 Code, to the extent of any conflict.

27           SECTION 32. Section 32.015(a), Tax Code, is amended to read



as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien ~~[filed before September 1, 2001,]~~ has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 33. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien ~~[or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien]~~.

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

1           (1) before October 1, 2005; or

2           (2) not later than six months after the end of the year  
3 for which the tax was owed.

4           (a-2) A person may not transfer title of a manufactured home  
5 until all tax liens perfected on the home have been extinguished or  
6 satisfied and released. This subsection does not apply to the sale  
7 of a manufactured home in inventory.

8           (b) A bona fide purchaser for value or the holder of a lien  
9 recorded on the manufactured home statement of ownership and  
10 location [~~document of title~~] is not required to pay any taxes that  
11 have not been recorded with the Texas Department of Housing and  
12 Community Affairs [~~imposed in a tax year that begins before January~~  
13 ~~1, 2001, or penalties or interest on those taxes except for each~~  
14 ~~year for which a valid tax lien was duly filed and recorded under~~  
15 ~~Section 32.015, as that section existed on the date the lien was~~  
16 ~~filed, and each year for which the owner of the manufactured home~~  
17 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
18 ~~that section existed before September 1, 2001. The effect and~~  
19 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
20 ~~imposed on a manufactured home in a tax year that begins on or after~~  
21 ~~January 1, 2001, are those established by Sections 32.01 and~~  
22 ~~32.05]. In this section, "manufactured home" has the meaning~~  
23 assigned by Section 32.015(b).

24           SECTION 34. The following laws are repealed:

25           (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
26 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
27 Occupations Code;

1           (2) Sections 32.03(c)-(j), Tax Code; and

2           (3) Section 623.093(d), Transportation Code.

3           SECTION 35. Not later than November 1, 2005, the Texas  
4 Department of Housing and Community Affairs shall prepare and make  
5 available to the public the disclosure form required by Section  
6 1201.455(a), Occupations Code, as amended by this Act.

7           SECTION 36. This Act takes effect immediately if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, this Act takes effect September 1, 2005.



**House Bill 2438**  
**Conference Committee Report**  
**Section-by-Section Analysis**

**HOUSE VERSION**

**SECTION 1.** Amends Section 1201.101(f), Occupations Code, to prohibit a licensed salesperson from participating in the sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application.

**SECTION 2.** Amends Section 1201.103(d), Occupations Code, to require an applicant for a salesperson's license to file with the director an application that is sponsored by a licensed, bonded retailer. Makes a wording change.

**SECTION 3.** Amends Section 1201.106(a), Occupations Code, to increase from \$20,000 to \$50,000 the bond or other security that must be filed by an applicant for an initial or renewal broker's license.

**SECTION 4.** Adds Section 1201.107(d), Occupations Code, to require a retailer or broker involved in the sale of certain manufactured homes to identify the bond on file with the department and provide in a sales contract that the identified bond applies to the sale.

**SECTION 5.** Amends Sections 1201.113(a), (b), (e), and (g), Occupations Code, relating to the certification and continuing education program requirements for holders of a salesperson's initial or renewal license.

**SECTION 6.** Amends Section 1201.114(a), Occupations Code, to revise the license periods for manufacturer's,

**SENATE VERSION**

**SECTION 1.** Same as House version.

**SECTION 2.** Same as House version.

**SECTION 3.** Same as House version.

**SECTION 4.** Same as House version.

**SECTION 5.** Same as House version.

**SECTION 6.** Same as House version.

**CONFERENCE**

**SECTION 1.** Same as House version.

**SECTION 2.** Same as House version.

**SECTION 3.** Same as House version.

**SECTION 4.** Same as House version.

**SECTION 5.** Same as House version.

**SECTION 6.** Same as House version.

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**HOUSE VERSION**

retailer's, broker's, installer's, and salesperson's licenses. Prohibits a person whose license has been suspended or revoked from engaging in licensed activities until the license has been reinstated.

SECTION 7. Amends Section 1201.151(d), Occupations Code, relating to the refund of a down payment if certain conditions are met.

SECTION 8. Amends Section 1201.159(a), Occupations Code, to require a broker of a manufactured home to ensure that the seller gives the buyer certain disclosures and warranties.

SECTION 9. Amends Sections 1201.163(a) and (b), Occupations Code, relating to consumer protection disclosure statements that are required in a chattel mortgage transaction.

SECTION 10. Amends Section 1201.164(a), Occupations Code, to authorize a retailer to withdraw the offer of an installment contract for a chattel mortgage transaction if the consumer has not accepted the offer within 72 hours after the contract is delivered.

SECTION 11. Amends Sections 1201.2055(d)-(h), Occupations Code, relating to a manufactured home owner's election to treat the home as either real property or personal property and requirements to file certain

**SENATE VERSION**

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Substantially the same as House version.

SECTION 10. Same as House version.

SECTION 11. Same as House version, except as follows:

**CONFERENCE**

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Same as Senate version.

SECTION 10. Same as House version.

SECTION 11. Same as Senate version, except as follows:

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documents with the Texas Department of Housing and Community Affairs, as follows:

(d) Requires the owner, among other provisions, to notify *the department* that a certified copy of the owner's statement of ownership and location has been filed in the real property records of the county in which the home is located.

(e) Provides that a manufactured home is not considered to be real property until a certified copy of the statement of ownership has been filed and that *the department* has been notified of the filing.

(f) Requires the department, if notified that a certified copy of the owner's statement of ownership has been filed, to note in a timely manner in its records that a real property election has been perfected. If no such notification has been made, requires *the department* to note in its records that a real property election has not been perfected and that the home remains personal property.

(g) Provides that a manufactured home is considered to be real property for all purposes after *the department* notes in its records that a real property election has been perfected.

(h) Establishes that provisions of this chapter relating to the construction or installation of a manufactured home or warranties for such a home apply regardless of whether the

SENATE VERSION

(d) Same as House version, except requires the owner to notify *the department and the tax assessor collector* of the filing. (A1)

(e) Same as House version, except requires that *the department and the tax assessor collector* have been notified of the filing. (A1)

(f) Substantially the same as House version, except requires *the department and the tax assessor collector* to note the non-perfection in their records. (A1)

(g) Same as House version, except provides that the consideration occurs after *the department and the tax assessor collector* note the perfection in their records. (A1)

(h) Same as House version.

CONFERENCE

(d) Same as Senate version.

(e) Same as Senate version.

(f) Substantially the same as Senate version.

(g) Same as Senate version.

(h) Same as House version.

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home is considered real or personal property.

**SECTION 12.** Amends Sections 1201.206(d) and (e), Occupations Code, relating to the sale or transfer of a manufactured home, as follows:

(d) Requires the seller or transferor of a home that is considered personal property to provide the department with a completed application for a new statement of ownership and location no later than the 30th day after the date of each subsequent sale or transfer. Exempts the subsequent sale or transfer of a home that is considered real property from regulation by the department.

(e) Provides for the passage or vesting of ownership of a manufactured home at the first retail sale or at a subsequent sale or transfer of the home on filing of a completed application.

**SECTION 13.** Amends Section 1201.207(a), Occupations Code, to require the department to process any completed application for the issuance of a statement of ownership and location no later than the 15th, rather than the 10th, working day after the department receives the application.

**SECTION 14.** Adds Section 1201.2076, Occupations Code, to prohibit the department from issuing a statement of ownership and location for a manufactured home that is being converted from real property to personal property

**SENATE VERSION**

**SECTION 12.** Same as House version, except as follows:

(d) Same as House version, except deletes the provision that exempts from regulation of the sale or transfer of a home that is considered real property.

No equivalent provision.

**SECTION 13.** Same as House version.

**SECTION 14.** Same as House version, except provides that a lien includes a tax lien and a lienholder includes a taxing unit. Adds a provision that prohibits the department from issuing the statement of conversion until the

**CONFERENCE**

**SECTION 12.** Same as Senate version, as follows:

(d) Same as Senate version.

Same as Senate version.

**SECTION 13.** Same as House version.

**SECTION 14.** Substantially the same as Senate version.



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until either each lien on the home is released by the lienholder or until each lienholder gives written consent, which is to be placed on file with the department.

No equivalent provision.

SECTION 15. Amends Section 1201.209, Occupations Code, to prohibit the department from refusing to issue or from suspending or revoking a statement of ownership and location unless a tax lien is filed and recorded under Section 1201.219, Occupations Code, relating to the perfection and effect of liens, and the lien has not been extinguished.

No equivalent provision.

SECTION 16. Amends Sections 1201.216(a) and (b), Occupations Code, relating to an application for the issuance of a statement of ownership and location for a manufactured home that indicates the home is reserved for business use or is a salvaged home.

**SENATE VERSION**

department has inspected the home and determined that it is habitable and has notified the appropriate tax assessor collector of the conversion. (A1)

SECTION 15. Amends Section 1201.208(a), Occupations Code, to prohibit the department from issuing a statement of ownership and location for a new manufactured home unless applicable ad valorem taxes, in addition to the state sales and use tax, have been paid. (A1)

No equivalent provision.

SECTION \_\_. Amends Section 1201.212(a), Occupations Code, to add a tax certificate showing ad valorem taxes remain due to the list of certified document copies the department must receive before issuing a new statement of ownership and location. (A1)

SECTION 16. Same as House version.

**CONFERENCE**

Same as House version.

SECTION 15. Same as House version.

Same as House version.

SECTION 16. Same as House version.

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**SECTION 17.** Adds Section 1201.217, Occupations Code, relating to an abandoned manufactured home, as follows:

(a) Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned if the home has been continuously unoccupied for at least *six* months.

(b) Requires that, before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department. Provides that mailing the notice by certified mail, return receipt requested, postage prepaid, to the required persons, constitutes conclusive proof of compliance with this provision.

(c) Authorizes the owner or a lienholder of a manufactured home, on receipt of a notice of intent to declare the home abandoned, to *freely* enter the real property on which the home is located to remove the home.

(d) Provides that, if a manufactured home remains on real property for at least 45 days after the postmark date of a notice of intent to declare the home abandoned, all liens on the home are extinguished and the real property owner may declare the home abandoned and apply to the department

**SENATE VERSION**

**SECTION 17.** Same as House version, except as follows:

(a) Same as House version, but requires the home to have been continuously unoccupied for at least *four* months *and any indebtedness secured by the manufactured home to also be delinquent*.

(b) Same as House version, except requires that the notice of intent to declare the home abandoned must also be sent to the tax assessor collector of the county in which the home is located. (A1)

(c) Same as House version, except deletes *freely* and adds a provision that prohibits the home from being moved without a tax receipt from the tax assessor collector of the county in which the home is located. (A1)

(d) Same as House version, except excludes a tax lien from the liens extinguished. (A1)

**CONFERENCE**

**SECTION 17.** Same as House version, except as follows:

(a) Same as Senate version.

(b) Same as House version.

(c) Same as House version, except deletes *freely*.

(d) Same as House version.

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for a statement of ownership and location that lists the real property owner as the owner of the home.

(e) Provides that a new statement of ownership and location issued by the department under this provision transfers, free of any liens, title to the manufactured home to the real property owner.

SECTION 18. Amends Section 1201.219(b), Occupations Code, to provide that a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department, with the exception of a lien on a manufactured home in inventory.

No equivalent provision.

SECTION 19. Amends Section 1201.221(a), Occupations Code, to require the department to provide, on written request, information held by the department on the current location, in addition to other information on a manufactured home.

**SENATE VERSION**

(e) Same as House version, except requires evidence of United States Postal Service return receipt from all lienholders and excludes a tax lien from the liens removed with the transfer of title. (A1)

No equivalent provision.

SECTION 18. Amends Section 1201.219(d), Occupations Code, to require the department to print on each statement of ownership and location a notice that the statement does not, rather than may not, reflect the existence of a tax lien notice and that information for which notice has been filed may be obtained from the tax assessor collector of the county in which the manufactured home is located, rather than from the department on written request. (A1)

SECTION 19. Substantially the same as House version.

**CONFERENCE**

(e) Substantially the same as Senate version.

SECTION 18. Same as House version.

Same as House version.

SECTION 19. Same as Senate version.

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**SECTION 20.** Amends Sections 1201.352(c) and (d), Occupations Code, relating to the documents a retailer must provide to a consumer before the signing of a binding retail installment sales contract or similar agreement.

**SECTION 21.** Adds Section 1201.357(c), Occupations Code, relating to an allegation that a manufacturer or retailer of a manufactured home failed to provide warranty service as a result of an action of the consumer.

**SECTION 22.** Amends Section 1201.361, Occupations Code, to require a warranty for a manufactured home to conspicuously disclose to the consumer certain notification required by the installer and to exempt the installer from obligation or liability for certain defects.

**SECTION 23.** Adds Section 1201.405(e), Occupations Code, relating to the manufactured homeowners' recovery trust fund. Requires the director to make an independent inquiry as to the damages actually incurred by a consumer unless the damages have been established by a contested jury trial.

**SECTION 24.** Amends Section 1201.451(a), Occupations Code, to remove certain exemptions from a provision that requires the transfer of good and marketable title upon the sale, exchange, or lease-purchase of a used manufactured home.

**SENATE VERSION**

**SECTION 20.** Same as House version.

**SECTION 21.** Same as House version.

**SECTION 22.** Same as House version.

**SECTION 23.** Same as House version.

**SECTION 24.** Same as House version.

**CONFERENCE**

**SECTION 20.** Same as House version.

**SECTION 21.** Same as House version.

**SECTION 22.** Same as House version.

**SECTION 23.** Same as House version.

**SECTION 24.** Same as House version.

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No equivalent provision.

SECTION 25. Amends Section 1201.455, Occupations Code, to prohibit the sale, exchange, or lease-purchase of a used manufactured home to a consumer for use as a dwelling without providing a written warranty that the home not only is but will remain habitable for a specified period, terminates the warranty unless certain conditions are met, and, if negotiations for the agreement are conducted primarily in a language other than English, requires that the warranty and a related disclosure be provided to the consumer in that language.

SECTION 26. Changes the heading of Section 1201.457, Occupations Code, to Habitability: Change To or From Business Use or Salvage.

SECTION 27. Amends Section 1201.457(b), Occupations Code, to extend to salvaged manufactured homes provisions relating to the habitability of manufactured homes for business use. Among other provisions, prohibits the purchaser of a manufactured home for business use or a salvaged manufactured home from allowing any person to occupy or use the home as a dwelling unless certain conditions are met.

**SENATE VERSION**

SECTION \_\_. Amends Section 1201.452(b), Occupations Code, to add a requirement that a person submit to the department a copy of any written disclosure relating to a used or salvaged manufactured home if the home does not have the appropriate seal or label. (A2)

SECTION 25. Same as House version, except adds a provision that prohibits such sale, exchange, or lease-purchase without providing a written disclosure, on a form prescribed by the department, describing in detail the condition of the home and of any appliances that are included in the home. Deletes the provision regarding negotiations and documents in a language other than English. Makes a conforming change to the section heading. (A2)

SECTION 26. Same as House version.

SECTION 27. Same as House version, except prohibits the purchaser from *knowingly* allowing any person to occupy or use such a home as a dwelling.

**CONFERENCE**

SECTION 25. Same as Senate version.

SECTION 26. Substantially the same as Senate version, except adds a requirement that the form not exceed two pages.

SECTION 27. Same as House version.

SECTION 28. Same as Senate version.

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**SECTION 28.** Adds Section 2306.591, Government Code, to provide requirements relating to manufactured homes installed in colonias.

No equivalent provision.

No equivalent provision.

**SECTION 29.** Amends Section 32.015(a), Tax Code, to remove language restricting a requirement that a taxing unit issue a tax certificate showing that no taxes are due or a tax paid receipt to payments on a valid tax lien that is filed before September 1, 2001.

**SECTION 30.** Amends Sections 32.03(a) and (b) and adds (a-1) and (a-2), Tax Code, to prohibit the enforcement of a personal property tax lien against a manufactured home or

**SENATE VERSION**

**SECTION 28.** Same as House version.

**SECTION 29.** Adds Section 1.04(3-a), Tax Code, to provide that a manufactured home, notwithstanding any provision to the contrary, is an improvement to real property only if the owner has elected to treat the home as real property pursuant to Occupations Code provisions and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located.

**SECTION 30.** Amends Section 32.014, Tax Code, to provide for the attachment of a tax lien to the land on which a manufactured home is located based on whether or not the owner has elected to treat the home as real property, rather than on whether the home is listed together with the land.

No equivalent provision. (A1)

No equivalent provision.

**CONFERENCE**

**SECTION 29.** Same as House version.

**SECTION 30.** Same as Senate version.

**SECTION 31.** Same as Senate version.

**SECTION 32.** Same as House version.

**SECTION 33.** Same as House version.

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the transfer of its title, with certain exceptions, unless specific requirements have been met. Exempts a purchaser or lienholder from the payment of any taxes not recorded with the department, rather than only of taxes filed in certain tax years.

No equivalent provision.

SECTION 31. Repeals Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code; Sections 32.014(d) and 32.03(c)-(j), Tax Code; and Section 623.093(d), Transportation Code.

No equivalent provision.

SECTION 32. Effective date.

**SENATE VERSION**

SECTION 32. Amends Section 32.03(j), Tax Code, to provide that unpaid taxes due a taxing unit include all unpaid taxes and any penalty and interest due the taxing entity for 4 years preceding the current tax year for personal property and for 10 years preceding the current tax year for real property, rather than for the tax year preceding the current tax year for either type of property. (A1)

SECTION 33. Same as House version, except does not repeal the Tax Code sections. (A1)

SECTION \_\_. Requires the Texas Department of Housing and Community Affairs, no later than November 1, 2005, to prepare and make available to the public the disclosure form required by Section 1201.455(a), Occupations Code, as amended by this act. (A2)

SECTION 34. Same as House version.

**CONFERENCE**

Same as House version.

SECTION 34. Same as House version, except does not repeal Section 32.014(d), Tax Code.

SECTION 35. Same as Senate version.

SECTION 36. Same as House version.

F

**ENROLLED**

H.B. No. 2438

AN ACT

relating to the acquisition and regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:



- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

- (1) identify the bond on file with the department in conjunction with that person's license; and
- (2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons [~~persons~~] regulated under this chapter.

(b) A person who holds a salesperson's license [~~holder~~] must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the

90th day after the date the salesperson's initial license is issued. To renew a salesperson's license, a salesperson ~~[Persons]~~ regulated under this chapter ~~[and directly involved in the sale of manufactured housing]~~ must complete an additional eight hours of certification and continuing education programs for each renewal ~~[each year]~~. The programs must be presented by a board-approved organization or educational institution and must include instruction in applicable ~~[address]~~ state and federal law, ~~[applicable to all manufactured housing retailer practices and relevant]~~ consumer protection regulations, and ethical standards.

(g) The board shall suspend the license of a salesperson ~~[person]~~ regulated under this chapter who does not complete the programs as required by this section. The board shall reinstate the license on the salesperson's ~~[person's]~~ completion of the programs.

SECTION 6. Section 1201.114(a), Occupations Code, is amended to read as follows:

(a) A manufacturer's, retailer's, broker's, or installer's license is valid for one year. A salesperson's license is valid for two years. A license ~~[and]~~ may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.

SECTION 7. Section 1201.151(d), Occupations Code, is amended to read as follows:

(d) This section does not apply to:

(1) a deposit held in escrow in a real estate transaction; or

1           (2) money stated to be a down payment in an executed  
2 retail [~~installment~~] sales contract.

3           SECTION 8. Section 1201.159(a), Occupations Code, is  
4 amended to read as follows:

5           (a) A broker shall ensure that the seller gives the buyer  
6 the applicable disclosures and warranties that the buyer would have  
7 received if the buyer had purchased the manufactured home through a  
8 licensed retailer [~~may but is not required to be the agent of a~~  
9 ~~party involved in the sale, exchange, or lease-purchase of a~~  
10 ~~manufactured home for which a statement of ownership and location~~  
11 ~~has been issued and is outstanding~~].

12          SECTION 9. Sections 1201.163(a) and (b), Occupations Code,  
13 are amended to read as follows:

14          (a) In addition to the disclosure statement required by  
15 Section 1201.162, the department shall adopt rules creating a  
16 one-page form printed in at least 12-point type that addresses  
17 [~~addressing~~] consumer protection disclosures required in chattel  
18 mortgage transactions and shall prescribe the form for the  
19 disclosure statement. A consumer protection disclosure statement  
20 under this subsection may not contain any blank lines and must  
21 contain only [~~include~~] the following:

22           (1) a statement of the significant differences between  
23 chattel mortgages and real estate mortgages;

24           (2) an itemization of typical [~~estimated closing~~]  
25 costs associated with a chattel mortgage purchase of a manufactured  
26 home [~~, if any~~]; and

27           (3) an example [~~estimate of the total amount~~] of

monthly payments in three typical chattel mortgage transactions,  
including an estimate of the amount of the [+

[~~(A)~~] principal, [~~and~~] interest, [~~payments,~~  
[~~(B)~~ costs of any] required insurance  
premium, [+] and

[~~(C)~~ costs for payment of] ad valorem taxes[~~,~~  
~~based on the current tax rate of each taxing unit in which the~~  
~~manufactured home will be located as applied to the sales price of~~  
~~the manufactured home,~~

[~~(4)~~ a statement of the roles of the retailer and any  
~~affiliated parties in the financing of the first retail sale, as~~  
~~defined by Section 1201.201, and the estimated compensation that~~  
~~they will receive for providing or arranging the financing, and~~

[~~(5)~~ any other disclosures required by state or  
~~federal law, including the Real Estate Settlement Procedures Act of~~  
~~1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act~~  
~~(15 U.S.C. Section 1601 et seq.)].~~

(b) A retailer shall provide the consumer protection  
disclosure statement to the consumer [~~at least 24 hours~~] before the  
completion of the first credit application [~~installment contract is~~  
~~fully executed, as provided by Section 1201.164].~~

SECTION 10. Section 1201.164(a), Occupations Code, is  
amended to read as follows:

(a) In a chattel mortgage transaction involving an  
installment contract, a retailer shall deliver to a consumer at  
least 24 hours before the contract is fully executed [~~the~~  
~~disclosure statements required by this subchapter and]~~ the

contract, with all required information included, signed by the retailer. The delivery of the ~~[disclosure statements and]~~ installment contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. The consumer may accept the offer not earlier than 24 hours after the delivery of the contract [documents]. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

SECTION 11. Section 1201.2055, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) ~~If [the department issues a statement of ownership and location to]~~ an owner elects ~~[who has elected]~~ to treat a manufactured home as real property, the department shall issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, the owner must:

(1) file the certified copy in the real property records of the county in which the home is located; and

(2) notify the department and the tax assessor-collector that the certified copy has been filed.

(e) A [the] manufactured home is not considered to be real property until a certified copy of the statement of ownership and location has been filed and the department and the tax

assessor-collector have been notified of the filing as provided by Subsection (d).

(f) If notice is provided under Subsection (d), the department and the tax assessor-collector in a timely manner shall note in their records that a real property election has been perfected. If notice is not provided as described by Subsection (d), the department and the tax assessor-collector shall note in their records that a real property election has not been perfected and that the home remains personal property ~~[in the real property records of the county in which the home is located]~~.

(g) After the department and the tax assessor-collector note in their records that a real property election has been perfected ~~[certified copy has been filed in the real property records of the county]~~, the home is considered to be real property for all purposes ~~[in the form of an improvement to the underlying real property on which the home is located. If a real property election has been made but a certified copy of the statement of ownership and location has not been filed as required by this subsection, the home continues to be treated as personal property until the certified copy is filed]~~.

(h) The provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

SECTION 12. Section 1201.206(d), Occupations Code, is amended to read as follows:

(d) Not later than the 30th day after the date of each ~~[At a]~~

1 subsequent sale or transfer of a ~~the~~ home that is considered to be  
2 personal property, the seller ~~[purchaser]~~ or transferor  
3 ~~[transferee]~~ shall provide to the department a completed  
4 application ~~[apply]~~ for the issuance of a new statement of  
5 ownership and location.

6 SECTION 13. Section 1201.207(a), Occupations Code, is  
7 amended to read as follows:

8 (a) The department shall process any completed application  
9 for the issuance of a statement of ownership and location not later  
10 than the 15th ~~[10th]~~ working day after the date the application is  
11 received by the department. If the department rejects an  
12 application, the department shall provide a clear and complete  
13 explanation of the reason for the rejection and instructions on how  
14 to cure any defects, if possible.

15 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,  
16 is amended by adding Section 1201.2076 to read as follows:

17 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
18 PROPERTY. The department may not issue a statement of ownership and  
19 location for a manufactured home that is being converted from real  
20 property to personal property until the department has inspected  
21 the home and determined that it is habitable and has notified the  
22 appropriate tax assessor-collector of the conversion and:

23 (1) each lien, including a tax lien, on the home is  
24 released by the lienholder; or

25 (2) each lienholder, including a taxing unit, gives  
26 written consent, to be placed on file with the department.

27 SECTION 15. Section 1201.209, Occupations Code, is amended

to read as follows:

Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION.

The department may not refuse to issue a statement of ownership and location and may not suspend or revoke a statement of ownership and location unless:

(1) the application for issuance of the statement of ownership and location contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership and location;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership and location would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership and location that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a ~~[local]~~ tax lien was filed ~~[before September 1, 2001,~~] and recorded under Section 1201.219 ~~[32.015, Tax Code, as that section existed on the date the lien was filed,~~] and the lien has not been extinguished.

SECTION 16. Sections 1201.216(a) and (b), Occupations Code,



are amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the [The] department shall indicate on the statement of ownership and location for the [a-manufactured] home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter [whether the home has been sold, exchanged, or lease-purchased to a purchaser for the purchaser's business use. For a home sold, exchanged, or lease-purchased as described by this subsection, the department shall issue a new statement of ownership and location that indicates that the home is reserved for business use].

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall [may] issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured [for the] home only after an inspection and determination that the structure [home] is habitable as provided by Section 1201.453. [The statement must indicate that the home is no longer reserved for business use.]

SECTION 17. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.217 to read as follows:

1       Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner  
2 of real property on which a manufactured home owned by another is  
3 located may declare the home abandoned as provided by this section  
4 if the home has been continuously unoccupied for at least four  
5 months and any indebtedness secured by the manufactured home is  
6 also delinquent.

7       (b) Before declaring a manufactured home abandoned, the  
8 owner of real property on which the home is located must send a  
9 notice of intent to declare the home abandoned to the owner of the  
10 home and all lienholders at the addresses listed on the home's  
11 statement of ownership and location on file with the department.  
12 Mailing of the notice by certified mail, return receipt requested,  
13 postage prepaid, to the persons required to be notified by this  
14 subsection constitutes conclusive proof of compliance with this  
15 subsection.

16       (c) On receipt of a notice of intent to declare a  
17 manufactured home abandoned, the owner of the home or a lienholder  
18 may enter the real property on which the home is located to remove  
19 the home.

20       (d) If the manufactured home remains on the real property  
21 for at least 45 days after the date the notice is postmarked:

22           (1) all liens on the home are extinguished; and

23           (2) the real property owner may declare the home  
24 abandoned and may apply to the department for a statement of  
25 ownership and location listing the real property owner as the owner  
26 of the manufactured home.

27       (e) A new statement of ownership and location issued by the

1 department under this section transfers, free of any liens, if  
2 there is evidence of United States Postal Service return receipt  
3 from all lienholders, title to the manufactured home to the real  
4 property owner.

5 SECTION 18. Section 1201.219(b), Occupations Code, is  
6 amended to read as follows:

7 (b) Except as provided by Subsection (a), a lien on a  
8 manufactured home is perfected only by filing with the department  
9 the notice of lien on a form provided by the department. The  
10 recordation of a lien with the department is notice to all persons  
11 that the lien exists. Except as expressly provided by Chapter 32,  
12 Tax Code, a lien recorded with the department has priority,  
13 according to the chronological order of recordation, over another  
14 lien or claim against the manufactured home.

15 SECTION 19. Section 1201.221(a), Occupations Code, is  
16 amended to read as follows:

17 (a) On written request, the department shall provide  
18 information held by the department on:

19 (1) the current ownership and location of a  
20 manufactured home; and

21 (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that  
22 home for which notice has been filed with the department.

23 SECTION 20. Sections 1201.352(c) and (d), Occupations Code,  
24 are amended to read as follows:

25 (c) Before the signing of a binding retail installment sales  
26 contract or other binding purchase agreement, the retailer must  
27 give the consumer a copy [~~or a general description~~] of:

(1) the manufacturer's warranty; ~~and~~

~~[(2) the retailer's warranty.]~~

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:]~~

~~[(1) the manufacturer's warranty,]~~

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer or retailer, as applicable:

(1) is discharged from the obligations imposed by the

1 relevant department orders;

2 (2) has no liability to the consumer; and

3 (3) is not subject to an action by the department for  
4 failure to provide warranty service.

5 SECTION 22. Section 1201.361, Occupations Code, is amended  
6 to read as follows:

7 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary  
8 installations not covered by the retailer's warranty described by  
9 Section 1201.352 and for the installation of all used manufactured  
10 homes, the installer shall give the manufactured home owner a  
11 written warranty that the installation of the home was performed in  
12 accordance with all department standards, rules, orders, and  
13 requirements.

14 (b) The warranty must conspicuously disclose the  
15 requirement that the consumer notify the installer of any claim in  
16 writing in accordance with the terms of the warranty. Unless the  
17 warranty provides for a longer period, the installer has no  
18 obligation or liability for any defect described in a written  
19 notice received from the consumer more than two years after the date  
20 of the installation.

21 SECTION 23. Section 1201.405, Occupations Code, is amended  
22 by adding Subsection (e) to read as follows:

23 (e) In determining the amount of actual damages under this  
24 section, the director shall make an independent inquiry as to the  
25 damages actually incurred, unless the damages have been established  
26 by a contested jury trial.

27 SECTION 24. Section 1201.451(a), Occupations Code, is

amended to read as follows:

(a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home without the appropriate transfer of good and marketable title to the home ~~[unless the sale, exchange, or lease-purchase is to:~~

~~[(1) a purchaser for the purchaser's business use; or  
[(2) a rebuilder for the purpose of rebuilding a  
salvaged manufactured home].~~

SECTION 25. Section 1201.452(b), Occupations Code, is amended to read as follows:

(b) If the home does not have the appropriate seal or label, the person must:

(1) apply to the department for a seal; ~~and~~  
(2) pay the fee; and  
(3) submit to the department a copy of any written disclosure required under Section 1201.455(a).

SECTION 26. Section 1201.455, Occupations Code, is amended to read as follows:

Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF HABITABILITY REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing:

(1) a written disclosure, on a form not to exceed two pages prescribed by the department, describing the condition of the home and of any appliances that are included in the home; and

1           (2) a written warranty that the home is and will remain  
2     habitable until the 60th day after the later of the installation  
3     date or the date of the purchase agreement.

4           (b) Unless, not later than the 65th [~~60th~~] day after the  
5     later of the installation date or the date of the sale, exchange, or  
6     lease-purchase agreement, the consumer notifies the seller in  
7     writing of a defect that makes the home not habitable, any  
8     obligation or liability of the seller under this subchapter is  
9     terminated. The warranty must conspicuously disclose that notice  
10    requirement to the consumer.

11          SECTION 27. The heading to Section 1201.457, Occupations  
12    Code, is amended to read as follows:

13          Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE  
14    OR SALVAGE.

15          SECTION 28. Section 1201.457(b), Occupations Code, is  
16    amended to read as follows:

17          (b) The purchaser of a used manufactured home for business  
18    use or the purchaser of a salvaged manufactured home may not sell,  
19    exchange, or lease-purchase the home for use as a dwelling or  
20    knowingly allow any person to occupy or use the home as a dwelling  
21    unless the director issues a new statement of ownership and  
22    location indicating that the home is no longer reserved for  
23    business use or salvage. On the purchaser's application to the  
24    department for issuance of a new statement of ownership and  
25    location, the department shall inspect the home and, if the  
26    department determines that the home is habitable, issue the  
27    statement of ownership and location.

SECTION 29. Subchapter Z, Chapter 2306, Government Code, is amended by adding Section 2306.591 to read as follows:

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS.

(a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

SECTION 30. Section 1.04, Tax Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 31. Section 32.014, Tax Code, is amended to read as follows:



1           Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the  
2 owner of a manufactured home has elected to treat the home as real  
3 property [~~is listed together with the land on which the~~  
4 ~~manufactured home is located~~] under Section 25.08, the tax lien  
5 shall be attached [~~attaches~~] to the land on which the manufactured  
6 home is located.

7           (b) If the owner of a manufactured home does not elect to  
8 treat the home as real property with [~~is listed separately from~~] the  
9 land on which the manufactured home is located, the tax lien on the  
10 manufactured home does not attach to the land on which the home is  
11 located.

12           (c) In this section, "manufactured home" has the meaning  
13 assigned by Section 1201.003, Occupations Code.

14           (d) [~~If a manufactured home is listed together with the land~~  
15 ~~on which the manufactured home is located, a taxing unit with~~  
16 ~~jurisdiction to impose taxes on the land may place a lien on the~~  
17 ~~manufactured home to secure payment of those taxes to the same~~  
18 ~~extent that it can place a lien on the land. If a home is moved from~~  
19 ~~its location and a new statement of ownership and location is not~~  
20 ~~issued under Section 1201.207, Occupations Code, a taxing unit with~~  
21 ~~jurisdiction to impose taxes on the land on which the manufactured~~  
22 ~~home was located retains the right to record and enforce liens on~~  
23 ~~that home to secure the payment of taxes, regardless of where the~~  
24 ~~home is currently located.~~

25           [~~(e)~~] This section prevails over Chapter 1201, Occupations  
26 Code, to the extent of any conflict.

27           SECTION 32. Section 32.015(a), Tax Code, is amended to read

as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien [~~filed before September 1, 2001,~~] has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 33. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien [~~or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien~~].

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

1           (1) before October 1, 2005; or  
2           (2) not later than six months after the end of the year  
3 for which the tax was owed.

4           (a-2) A person may not transfer title of a manufactured home  
5 until all tax liens perfected on the home have been extinguished or  
6 satisfied and released. This subsection does not apply to the sale  
7 of a manufactured home in inventory.

8           (b) A bona fide purchaser for value or the holder of a lien  
9 recorded on the manufactured home statement of ownership and  
10 location ~~[document of title]~~ is not required to pay any taxes that  
11 have not been recorded with the Texas Department of Housing and  
12 Community Affairs ~~[imposed in a tax year that begins before January~~  
13 ~~1, 2001, or penalties or interest on those taxes except for each~~  
14 ~~year for which a valid tax lien was duly filed and recorded under~~  
15 ~~Section 32.015, as that section existed on the date the lien was~~  
16 ~~filed, and each year for which the owner of the manufactured home~~  
17 ~~had constructive notice of the taxes under Section 32.015(e), as~~  
18 ~~that section existed before September 1, 2001. The effect and~~  
19 ~~priority of a tax lien that attaches to secure the payment of taxes~~  
20 ~~imposed on a manufactured home in a tax year that begins on or after~~  
21 ~~January 1, 2001, are those established by Sections 32.01 and~~  
22 ~~32.05].~~ In this section, "manufactured home" has the meaning  
23 assigned by Section 32.015(b).

24           SECTION 34. The following laws are repealed:

25           (1) Sections 1201.164(b), 1201.165, 1201.206(a),  
26 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b),  
27 Occupations Code;

1           (2) Sections 32.03(c)-(j), Tax Code; and

2           (3) Section 623.093(d), Transportation Code.

3           SECTION 35. Not later than November 1, 2005, the Texas  
4 Department of Housing and Community Affairs shall prepare and make  
5 available to the public the disclosure form required by Section  
6 1201.455(a), Occupations Code, as amended by this Act.

7           SECTION 36. This Act takes effect immediately if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, this Act takes effect September 1, 2005.

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President of the Senate

---

Speaker of the House

I certify that H.B. No. 2438 was passed by the House on April 28, 2005, by the following vote: Yeas 134, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2438 on May 23, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2438 on May 28, 2005, by the following vote: Yeas 133, Nays 11, 2 present, not voting.

---

Chief Clerk of the House

H.B. No. 2438

I certify that H.B. No. 2438 was passed by the Senate, with amendments, on May 20, 2005, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2438 on May 28, 2005, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 2438 was passed by the House on  
(1)

April 28

(2)

, 2005, by the following vote:

Yeas 134, Nays 0, 2 present, not voting;  
(3) (4)

that the House refused to concur in Senate amendments to H.B. No. 2438  
on May 23, 2005, and requested the  
(5)

appointment of a conference committee to consider the differences  
between the two houses; and that the House adopted the conference  
committee report on H.B. No. 2438 on May 28, 2005, by  
(6)  
the following vote: Yeas 133, Nays 11, 2 present, not voting.  
(7) (8)

\_\_\_\_\_  
Chief Clerk of the House

\*\*\*\* Preparation: CT43

I certify that H.B. No. 2438 was passed by the Senate, with  
(1)

amendments, on May 20, 2005, by the following  
(2)

vote: Yeas 29, Nays 2;  
(3) (4)

at the request of the House, the Senate appointed a conference  
committee to consider the differences between the two houses;  
and that the Senate adopted the conference committee report on  
H.B. No. 2438 on May 28, 2005, by the following vote:  
(5)

Yeas 31, Nays 0.  
(6) (7)

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

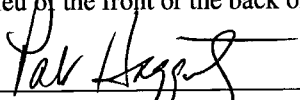
\*\*\*\* Preparation: CT44

79TH LEGISLATURE

COAUTHOR AUTHORIZATION

(please request your coauthors to sign this form  
in lieu of the front or the back of the original bill)

Bill or Resolution Number: HB 2438

  
signature of **primary** author

Pat Haggerty  
printed name of **primary** author

4/7/05  
Date

PERMISSION TO SIGN HB 2438 HAS BEEN GIVEN TO (check only one of the following):  
(bill or resolution #)

☒ ALL REPRESENTATIVES  
\_\_\_\_ THE FOLLOWING REPRESENTATIVE(S): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

<u>A2100 Allen, Alma</u>	<u>                    </u> Date	<u>A2435 Coleman</u>	<u>                    </u> Date	<u>A2800 Escobar</u>	<u>                    </u> Date
<u>A2115 Allen, Ray</u>	<u>                    </u> Date	<u>A2450 Cook, Byron</u>	<u>                    </u> Date	<u>A2795 Farabee</u>	<u>                    </u> Date
<u>A2125 Alonzo</u>	<u>                    </u> Date	<u>A2565 Cook, Robert "Robby"</u>	<u>                    </u> Date	<u>A2810 Farrar</u>	<u>                    </u> Date
<u>A2150 Anchia</u>	<u>                    </u> Date	<u>A2595 Corte</u>	<u>                    </u> Date	<u>A2840 Flores</u>	<u>                    </u> Date
<u>A2155 Anderson</u>	<u>                    </u> Date	<u>A2605 Crabb</u>	<u>                    </u> Date	<u>A2850 Flynn</u>	<u>                    </u> Date
<u>A2160 Bailey</u>	<u>                    </u> Date	<u>A2610 Craddick</u>	<u>                    </u> Date	<u>A2860 Frost</u>	<u>                    </u> Date
<u>A2170 Baxter</u>	<u>                    </u> Date	<u>A2640 Crownover</u>	<u>                    </u> Date	<u>A2920 Gallego</u>	<u>                    </u> Date
<u>A2205 Berman</u>	<u>                    </u> Date	<u>A2620 Davis, John</u>	<u>                    </u> Date	<u>A2960 Gattis</u>	<u>                    </u> Date
<u>A2220 Blake</u>	<u>                    </u> Date	<u>A2625 Davis, Yvonne</u>	<u>                    </u> Date	<u>A2945 Geren</u>	<u>                    </u> Date
<u>A2230 Bohac</u>	<u>                    </u> Date	<u>A2635 Dawson</u>	<u>                    </u> Date	<u>A2935 Giddings</u>	<u>                    </u> Date
<u>A2250 Bonnen</u>	<u>                    </u> Date	<u>A2680 Delisi</u>	<u>                    </u> Date	<u>A2910 Gonzales</u>	<u>                    </u> Date
<u>A2280 Branch</u>	<u>                    </u> Date	<u>A3385 Denny</u>	<u>                    </u> Date	<u>A4660 Gonzalez Toureilles</u>	<u>                    </u> Date
<u>A2265 Brown, Betty</u>	<u>                    </u> Date	<u>A2690 Deshotel</u>	<u>                    </u> Date	<u>A2985 Goodman</u>	<u>                    </u> Date
<u>A2270 Brown, Fred</u>	<u>                    </u> Date	<u>A2705 Driver</u>	<u>                    </u> Date	<u>A2990 Goolsby</u>	<u>                    </u> Date
<u>A2255 Burnam</u>	<u>                    </u> Date	<u>A2665 Dukes</u>	<u>                    </u> Date	<u>A3010 Griggs</u>	<u>                    </u> Date
<u>A2295 Callegari</u>	<u>                    </u> Date	<u>A2660 Dunnam</u>	<u>                    </u> Date	<u>A3020 Grusendorf</u>	<u>                    </u> Date
<u>A2290 Campbell</u>	<u>                    </u> Date	<u>A2650 Dutton</u>	<u>                    </u> Date	<u>A3045 Guillen</u>	<u>                    </u> Date
<u>A2490 Casteel</u>	<u>                    </u> Date	<u>A2770 Edwards</u>	<u>                    </u> Date	<u>A3035 Haggerty</u>	<u>                    </u> Date
<u>A2495 Castro</u>	<u>                    </u> Date	<u>A2775 Eiland</u>	<u>                    </u> Date	<u>A3050 Hamilton</u>	<u>                    </u> Date
<u>A2585 Chavez</u>	<u>                    </u> Date	<u>A2780 Eissler</u>	<u>                    </u> Date	<u>A2695 Hamric</u>	<u>                    </u> Date
<u>A2480 Chisum</u>	<u>                    </u> Date	<u>A2785 Elkins</u>	<u>                    </u> Date	<u>A3160 Hardcastle</u>	<u>                    </u> Date



A3165 Harper-Brown	Date	A3540 Laubenberg	Date	A4230 Quintanilla	Date
A3170 Hartnett	Date	A3560 Leibowitz	Date	A4215 Raymond	Date
A3190 Hegar	Date	A3620 Luna	Date	A4236 Reyna	Date
A3140 Herrero	Date	A3715 Madden	Date	A4220 Riddle	Date
A3250 Hilderbran	Date	A3780 Martinez	Date	A4250 Ritter	Date
A3275 Hill	Date	A2835 Martinez Fischer	Date	A4270 Rodriguez	Date
A3305 Hochberg	Date	A3665 McCall	Date	A4350 Rose	Date
A3290 Hodge	Date	A3650 McClendon	Date	A4420 Seaman	Date
A3325 Homer	Date	A3845 McReynolds	Date	A4525 Smith, Todd	Date
A3320 Hope	Date	A3830 Menendez	Date	A4540 Smith, Wayne	Date
A3330 Hopson	Date	A3840 Merritt	Date	A4530 Smithee	Date
A3315 Howard	Date	A3835 Miller	Date	A4550 Solis	Date
A3340 Hughes	Date	A3855 Moreno, Joe	Date	A4505 Solomons	Date
A3355 Hunter	Date	A3860 Moreno, Paul	Date	A4545 Strama	Date
A3360 Hupp	Date	A3870 Morrison	Date	A4570 Swinford	Date
A3375 Isett	Date	A3865 Mowery	Date	A4585 Talton	Date
A3350 Jackson	Date	A3885 Naishtat	Date	A4600 Taylor	Date
A3405 Jones, Delwin	Date	A3895 Nixon	Date	A4630 Thompson	Date
District 121	Date	A3900 Noriega	Date	A4650 Truitt	Date
A3400 Jones, Jesse	Date	A3880 Oliveira	Date	A4685 Turner	Date
A3475 Keel	Date	A3886 Olivo	Date	A4695 Uresti	Date
A3410 Keffer, Bill	Date	A3930 Orr	Date	A4700 Van Arsdale	Date
A3480 Keffer, Jim	Date	A3945 Otto	Date	A4725 Veasey	Date
A3470 King, Phil	Date	A4100 Paxton	Date	A4800 Villarreal	Date
A3465 King, Tracy	Date	A4140 Pena	Date	A4900 Vo	Date
A3495 Kolkhorst	Date	A4160 Phillips	Date	A4995 West	Date
A3485 Krusee	Date	A4180 Pickett	Date	A4985 Wong	Date
A3450 Kuempel	Date	A4185 Pitts	Date	A5005 Woolley	Date
A3510 Laney	Date	A4200 Puente	Date	A5150 Zedler	Date

for chief clerk use only  
Bill or Resolution Number: HB 2438

JOINT AUTHOR AUTHORIZATION

As primary author of HB 2438 I hereby authorize the following joint author(s):  
(bill or resolution #)

Chenette Robin Fawcett  
printed name of joint author #1

[Signature]  
signature of joint author #1

4/7/05

\_\_\_\_\_  
printed name of joint author #2

\_\_\_\_\_  
signature of joint author #2

\_\_\_\_\_  
printed name of joint author #3

\_\_\_\_\_  
signature of joint author #3

\_\_\_\_\_  
printed name of joint author #4

\_\_\_\_\_  
signature of joint author #4

[Signature]  
signature of primary author

4/7/05  
date

H.B. No. 2438

A BILL TO BE ENTITLED  
AN ACT

By

Haggerty

relating to the acquisition and regulation of manufactured homes.

MAR 09 2005

Filed with the Chief Clerk

MAR 15 2005

Read first time and referred to Committee on

Licensing & Administrative Procedures

APR 06 2005

Reported favorably (~~unfavorably~~)  
(as substituted)

APR 18 2005

Sent to Committee on (~~Calendar~~) (Calendars)  
(~~Local & Consent Calendars~~)

APR 27 2005

Read second time (comm. subst.) (amended); passed to third reading (~~failed~~) by a (non-record vote)  
(~~record vote of~~ yeas, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of yeas, nays, present, not voting

APR 28 2005

Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (~~non-record vote~~)  
(record vote of 134 yeas, 0 nays, 2 present, not voting)

Engrossed

APR 29 2005

Sent to Senate

Robert Haney  
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

APR 29 2005

Received from the House

MAY 02 2005

Read and referred to Committee on

BUSINESS AND  
COMMERCE

Reported favorably

MAY 13 2005

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

MAY 20 2005

Senate and Constitutional Rules to permit consideration suspended by (~~unanimous consent~~)

(yeas, nays)

MAY 20 2005

Read second time, amended, and passed to third reading by (~~unanimous consent~~)

(a viva voce vote)

(yeas, nays)

MAY 20 2005

Senate and Constitutional 3 Day Rules suspended by a vote of 29 yeas, 2 nays

MAY 20 2005

Read third time, amended, and passed by a (viva voce vote)

(29 yeas, 2 nays)

May 20, 2005

Returned to the House

Latey Spaw  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 20 2005

Returned from the Senate (as substituted)  
(with amendments)

House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

MAY 23 2005

House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (~~record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting~~)

MAY 23 2005

House conferees appointed: Haggerty, Chair; Hamilton,  
Quintanilla, Gurllan, Jones of Lubbock

MAY 27 2005

Senate granted House request. Senate conferees appointed: Armbrister, Chair;  
Brimer, Fraser, Harris, Lucio

MAY 28 2005

Conference committee report adopted (~~rejected~~) by the House by a (~~non-record vote~~)  
(record vote of 133 yeas, 11 nays, 2 present, not voting)

MAY 28 2005

Conference committee report adopted (~~rejected~~) by the Senate by a (~~win-lose vote~~)  
(record vote of 31 yeas, 0 nays)

05 APR 15 PM 7:34

HOUSE OF REPRESENTATIVES

05 MAY 21 PM 3:58

HOUSE OF REPRESENTATIVES